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The American Political Science Review

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THE GOVERNMENT OF IRAQ

QUINCY WRIGHT
University of Chicago

Those who set up a new government usually have to compromise between the ideas current at the time, their own traditions, and the conditions of the territory and people to be governed. Ideas are likely to have more influence on the form than the substance, and imported traditions soon disappear unless control remains external. For a time, a system of government may be affected by such ideas and traditions, but if it lasts it is because it has become adapted to the physical, social, and psychological conditions of the region where it operates. These conditions, it is true, may be gradually modified by a government guided by philosophical ideas or foreign traditions. Such influences are, indeed, the cause of progress, but a government can safely follow them only if it makes large concessions to local conditions. The government of Iraq well illustrates the interplay of these three influences. It is a compromise of Wilsonian ideas, British traditions, and Iraq conditions.

The theoretical basis of the Peace Conference of 1919 was expressed in President Wilson's fourteen points and subsequent addresses. This basis had been formally accepted by the Allies and Germany in the agreement of November 5, 1918, before the armistice, and so legally superseded all conflicting agreements, secret or otherwise, with respect to Germany.[1] The Turkish and

[1] Correspondence between Germany and principal allied and associated powers, May 29, 1919, and June 16, 1919, 66 Cong., 1st Sess., Sen. Doc. 149, pp. 83, 101; Temperley, *A History of the Peace Conference of Paris*, I, 133–135, 417–420.

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Austrian armistices, however, had been made earlier, and these states were not parties to the agreement of November 5. Thus, legally, the conference was not bound to apply these principles to them. Both Turkey and Austria, however, had expressly referred to the Wilsonian principles in asking for peace,[2] and the Allies, having propagandized them among the subject peoples of the two empires for war purposes, could not wholly repudiate them. Thus the doctrines of government by the consent of the governed, nationality, and self-determination, which had in fact become the liberal criteria of political progress in Europe during the nineteenth century, were taken to the East, to Africa, and to the Pacific, and were taken into account by the Peace Conference in providing government for the areas under its control.

Conditions in most of these areas precluded immediate independence. Principle precluded annexation. Experience precluded internationalization.[3] Thus the "well being and development" of these peoples was recognized by the Covenant (Art. 22) as a "sacred trust of civilization." Their "tutelage" was to be intrusted to "advanced nations," who were to "exercise" it "as mandatories on behalf of the League of Nations." Differences were recognized in the stage of development of the peoples to be placed under mandate, and those formerly belonging to Turkey were to be accorded the highest degree of self-government. "Their existence as independent nations can be provisionally recognized subject to the rendering of administrative advice and assistance by a mandatory until such time as they are able to stand alone. The wishes of these communities must be a principal consideration in the selection of the mandatory."

Of the three mandated territories in this class—Palestine, Syria, and Iraq—the last has far the most self-government; in fact it alone has had its "independence provisionally recognized,"

[2] Austrian note, Oct. 7, 1918, Turkish note, Oct. 14, 1918, in *Official Statement of War Aims and Peace Proposals, Dec., 1916, to Nov., 1918*, Carnegie Endowment for International Peace, Pamph. No. 31, pp. 418–419.

[3] Wright, "United States and the Mandates," *Michigan Law Review*, vol. 23, pp. 717–723.

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as required by the Covenant. Palestine has remained under the direct administration of the mandatory, Great Britain, and a change does not seem immediately in prospect. In fact, self-government, which would imply Arab control, would be at present wholly incompatible with the maintenance of the "Jewish national home" required by the mandate. A legislative council, selected so as to prevent Arab control, has been offered, but rejected by the Arabs, though some such arrangement may eventually be put into operation. At present, legislation as well as administration and control of the higher courts are in the hands of British officers acting under authority of British orders in council.[4]

Trans-Jordan, which is part of the British mandate, has been excluded by the mandate from the Zionist provision and is in fact administered by an Arab government at whose head is the Emir Abdulla, son of ex-King Husein of the Hedjaz, and brother of King Feisal of Iraq and ex-King Ali of the Hedjaz. British control is exercised through a resident representative of the High Commissioner of Palestine, with mainly advisory powers, supported by the Arab legion under British command and a British air force. The inhabitants are in the main tribally organized, many of them nomadic, and the constitutional organization is primitive. The British keep a steady hand on finances and defense, letting Abdulla go pretty much his own way in other matters. Here there is considerable independence, though not much popular control of government.[5]

In Syria, which was put under French mandate in accord with secret treaties of the war, and in defiance of the "wishes" of the people, expressed to the King-Crane commission sent out by President Wilson during the Peace Conference, indirect government exists in theory but not in practice. The French planned to create states according to the religious and historic differences of inhabitants of this territory, and to combine them in a federation. The Lebanon, however, with a large Christian population, feared

[4] See Report of the High Commissioner on the administration of Palestine, 1920–1925, British Colonial Office, pp. 6, 44–47; Wright, "The Palestine Problem," *Political Science Quarterly*, Sept., 1926.

[5] Report on Palestine, 1920–1925, pp. 53–55.

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absorption in a Moslem Syrian state. As the Lebanese Christians had alone favored French rule, they were given a separate organization, with a legislative assembly, and have now (1926) been accorded a constitution and president of their choice. Turkey compelled the retrocession of Cilicia in 1921, and the other states —the Alouite, Aleppo, Damascus, and the Jebel-Druse—have been at times federated and at times separated. Some of them have been given legislative assemblies, but these have seldom functioned. In fact, legislation and administration have been almost entirely in the hands of the French High Commissioner and French officials. Insurrection was sporadic until the summer of 1925, and has been continuous since. The recent High Commissioner, M. de Jouvenal, appears to have offered provisional independence for a united Syria (apart from the Lebanon), relations with France to be governed by treaty, but this has not been accepted by the Druse and Arab insurgents, who have no confidence in French good faith.[6]

In Iraq alone do the doctrines of government by consent of the governed, nationality, and self-determination make any approach to realization. Stimulated by serious insurrection in 1920, by parliamentary complaints of expense, by the advice of Arab sympathizers like Colonel Lawrence and Miss Gertrude Bell, and by the need of a place for the Emir Feisal, just expelled from Damascus by the French, Great Britain abandoned the system of direct administration which had prevailed in Mesopotamia since the British occupation, recognized Feisal as constitutional king of Iraq, and signed a treaty with him on October 10, 1922. This treaty provided for British defense of Iraq, and the acceptance by Iraq of British advice and assistance. As originally drawn, it was to have been in effect for twenty years. A protocol of April 30, 1923, modified this to the period until Iraq shall become a member of the League of Nations, which may not be over four years from conclusion of peace with Turkey. As the treaty of Lausanne came into effect in 1924, the Iraq alliance would have ended in 1928. Further detailed agreements in

[6] Leonard Stein, *Syria* (London, 1926); Wright, in *Current History*, Feb., 1926, pp. 687–693; Lybyer, *ibid.*, July–Oct., 1926, pp. 649, 819, 981, 150.

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pursuance of the treaty were signed on March 25, 1924; and in January, 1926, in fulfillment of the League's award of Mosul to Iraq, the treaty was extended for twenty-five years.[7]

Feisal was not particularly popular with the people of Iraq, his election by a large majority was something of a farce, and the constitutional convention which ratified the treaty may not have fully represented Iraq sentiment. Nevertheless, in form the status and government of Iraq comply with the requirements of Article 22 of the Covenant. This was recognized by the League of Nations Council, which on September 27, 1924, formally accepted a document prepared by Great Britain and reciting the treaty as the mandate for Iraq.[8] In conformity with the treaty, a constitutional convention was called which not only ratified the treaty but on July 10, 1924, approved an organic law of 123 articles.[9]

Thus the constitutional documents of Iraq are Article 22 of the League of Nations Covenant, the treaty of alliance with Great Britain and its amendments, the League mandate, and the organic law. These establish a complicated structure seeking to realize the ideals of the Fourteen Points and of Arab nationalism encouraged by them, with due consideration for British colonial experience and the conditions of Iraq. To these latter we must now turn.

Formal documents by no means determine the working of government. The traditions brought by those in actual control are of more importance. The British have developed traditions of administration in backward areas, but it was especially their forty years' experience in Egypt which served them in Iraq.

The first of these traditions is that of sending good men to the spot. In this the British are in notable contrast to the French. Not that Frenchmen as a whole are less able than Englishmen,

[7] Great Britain, Treaty Series, No. 17 (1925), Cmd. 2370; Lybyer, in *Current History*, March, 1926, p. 925.

[8] Iraq, Papers Relating to the Application to Iraq of the Principles of Article 22 of the Covenant of the League of Nations, London, 1925, Cmd. 2317; League of Nations Official Journal, Sept. 27, 1924.

[9] Iraq, Letter from the British Government forwarding the Text of the Organic Law of Iraq, League of Nations, C 412, 1924, VI.

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but they like to stay at home. Few Frenchmen of first-rate ability care to spend a large share of their lives in exile from Paris, and the government does not give large enough salaries to induce them to do so. In England, on the other hand, a traditional prestige attaches to colonial administration, and salaries are more generous.[10] The British advisers to the Iraq government are undoubtedly able men, and perform a difficult task with efficiency and tact.

The second British tradition here significant is that of subordinating form to substance. If British administrators can make the government run the way they want, they are willing to dispense with the appearance of power. The way of doing this has been developed in the native Indian states, and especially in Egypt, where the legal position of British control was of a doubtful order. The consul-general had merely advisory powers, so far as law and treaties were concerned, though in fact he was supported by an army of occupation. This, however, would not have facilitated orderly government if it had been too ostentatiously paraded. The actual control was exercised through Britishers appointed by the Egyptian government, with powers generally limited to advising the responsible Egyptian officials. As Lord Cromer explains, they relied mainly on powers of persuasion.[11]

[10] Lord Cromer's opinion on the subject (*Modern Egypt*, II, 300) may be noted: "In countries such as India and Egypt, the best policy to pursue is to employ a small body of well-selected and well-paid Europeans. Everything depends on finding the right man for the right place. If he can be found, it is worth while to pay him well. It is a mistake to employ second or third rate Europeans on low salaries. They often do more harm than good. Public opinion generally condemns high salaries, but on this particular point the European administrator in the East will do well to follow his own judgment and not to be unduly influenced by outside criticism. It is worth while to pay something extra in order to secure the services of a really competent and thoroughly trustworthy official." The schedule attached to the Iraq treaty requires salaries of 2,500 to 3,500 rupees a month ($10,000 to $14,000 a year) for the higher British advisers. Officials of the fifth (lowest) grade receive 800 to 1,300 rupees a month ($3,200 to $5,200) a year. See also Lugard, "The White Man's Task in Tropical Africa," *Foreign Affairs*, Oct., 1926; Chirol, *The Occident and the Orient*, p. 211.

[11] "The work done by the Anglo-Egyptian official is, therefore, mainly the outcome of his own resource and his own versatility. If he is adroit, he can make the fact that the soldiers of his nation are in occupation of the country felt without

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This is the method of British influence in Iraq. The treaty requires the king to appoint certain British advisers on contract, the terms of which are specified in the annexed agreement. Under these provisions advisers are attached to each of the ministries at Bagdad and to the administration of each liwa. The agreement provides that these officials "shall be in the service of the Iraq government and responsible to that government and not to the High Commissioner." They have no formal means of compelling the minister to accept their advice. Furthermore, they are under no obligation to follow the opinion of the British high commissioner in giving advice. In fact they keep in close touch with him, but consider their primary duty to Iraq and advise on their own responsibility, even when they differ from the high commissioner and the British government. These functionaries, who remain in the background and influence only through persuasion, are, as Cromer said of Egypt, the "motive power" of the government.[12]

The high commissioner does, it is true, have an absolute veto in certain important matters, and there is a British military force in Iraq; but in practice these powers of control are not utilized, the persuasion of the advisers proving sufficient. Continuance of this condition depends upon the ability of the advisers to make adequate plans, to persuade the native officials to accept these plans, and to yield to the latter all credit for success. This willingness to subordinate themselves has not become a tradition in French administration. The advisory system, though attempted in Syria, resulted in continuous friction, as the advisers, becoming impatient with the slow process of persuasion, were often inclined to administer directly, thus leaving the native official with the uncomfortable feeling of being a fifth wheel.[13]

flaunting their presence in any gross fashion before the eyes of his Egyptian superior. As a matter of fact, the most successful Anglo-Egyptian officials have been those who have relied most on their own powers of persuasion, and have rarely applied for diplomatic support." Cromer, *op. cit.*, II, 283.

[12] *Ibid.*, II, 279.

[13] The Count de Gontaut-Biron, an officer on the staff of the French army in the Levant, points out that a large proportion of the officers sent to Syria came "imbued

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Finally, the British tradition has been to develop policies by a close study of the facts of the situation rather than by the application of abstract principles of government developed, perhaps, in a totally different environment. Thus the British have seldom assimilated their colonies and protectorates. British administrators have preserved their own manners and customs, have lived aloof, and have not intermarried with the natives as have the French, Spanish, and Portugese. But, while keeping their own culture distinct, they have not tried to impose it on the natives. They have aimed to develop native institutions which seemed useful rather than to substitute their own.

This policy, apparently favored by the League of Nations Mandates Commission,[14] tends to develop native civilizations according to their inherent tendencies, and is to be contrasted with the policy of assimilation exemplified by Spain and Portugal in Latin America and by France in Algeria.[15] The tradition employed in Iraq has undoubtedly given the British an advantage over the French in Syria. The leading complaint in the latter territory is that the French are colonizing, not mandating.

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with the habits and methods of Moroccan administration. These were not at all applicable in Syria. Not to speak of the much Europeanized Christians, the Moslems of Syria have a mentality absolutely different from that of the Moroccans and more evolved. From these new arrivals, whose preconceived ideas were aggravated by inexperience, there too often escaped unfortunate expressions scarcely favorable to the Syrians and their country, and at the same time humiliating, which were resented with a particular vivacity by one of the most susceptible peoples in the world." R. de Gontaut-Biron, *Comment la France s'est installée en Syrie* (Paris, 1923), 226, quoted by Stein, *op. cit.*, 42.

[14] League of Nations, Permanent Mandates Commission, Minutes, 2nd Sess., p. 86; 6th Sess., pp. 25, 35–37; Report 8th Sess., pp. 5, 12.

[15] The British in colonial New England tried to educate the Indians in English and to Christianize them (James Alton James, "English Institutions and the American Indians," *Johns Hopkins University Studies in Historical and Political Science*, 12th Ser., 1894, p. 515), but were less successful in their efforts at assimilation than the Spanish in Mexico and Central and South America, where Indians and Mestizos of essentially Spanish culture form a majority of the population today. For exposition of the British point of view, see Lugard, *Dual Mandate in Tropical Africa*, and of the French point of view, "Argument of Council in Tunis Nationality Decrees Case," *Publications of the Permanent Court of International Justice*, Series C, No. 2, pp. 109–242, and for comparison of the two, Buell, *International Relations* (N. Y., 1925), 358–364.

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By this the Arabs mean to register their protest against Gallicization. They are proud of their language and their culture, and look with hostility upon an administrative policy which will gradually destroy its distinctiveness. The French attempt to introduce their language in the schools, and neglect to learn Arabic themselves; they introduce laws and regulations on a French model; they inculcate French literature, manners, and customs, and develop French architecture.[16] The British, on the other hand, leave Arabic as the language of elementary instruction, learn that language themselves, study the indigenous customs and laws, and seek to understand the spirit of the people and to preserve its characteristic expressions.

It is not to be supposed that the British officials lose sight of imperial interests. Economic resources like Mosul oil are made available for British investors and producers. Markets are opened up for British goods. Strategic positions are strengthened. The British colonial administrator, however, does not regard expansion of British culture as an imperial interest. He is content to leave the native manners, customs, and religion intact, so far as compatible with security, order, and economic development. The French administrator, on the other hand, fully appreciative of French civilization, fears he is failing in duty if he neglects to pass it on to the less fortunate natives under his charge. Like the conquistador in New Spain, he is a missionary, if not of Christianity, at least of civilization, which to him means French civilization.

Undoubtedly the British tradition of able administrators willing to subordinate themselves to native *amour propre* and to respect native culture has made the government workable. The principles incorporated in the constitutional documents, whatever may be their ultimate effect, at present render that task more difficult. Indirect administration of a backward area is more laborious and less efficient than direct.

More difficulties, however, have been presented by the conditions in Iraq. Upon adoption of the present régime the frontier was largely undefined and menaced by hostile neighbors. The

[16] Wright, in *Current History*, Feb., 1925, pp. 687–693.

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country had not recovered from war devastation, and was in dire poverty. The people had no experience in self-government, were divided into hostile factions cemented by a most rudimentary sense of nationality, and many of them had recently been in revolt against the British. With need of an army of defense, inadequate taxation resources with which to support it, and an inexperienced, disillusioned, and disunited public opinion on which to rely, the auspices seemed unfavorable for experiments in constitutional government. Incidentally, it may be noticed that the anxiety of Parliament and British public opinion about the expense of the undertaking did not reduce the difficulties.

The frontier question may not have been wholly disadvantageous. Tribal attacks on the desert frontier were frequent, but Ibn Saud of Nejd has devoted his attention mainly to the western side of Arabia, and his tribesmen have never really menaced the independence of Iraq. The Mosul question, however, was looked upon as a serious danger. With Mosul in Turkish possession, no natural barrier would stop an advance to Bagdad. Economic questions, such as oil, head-waters for irrigation, and supplies of road-making material and grain, played a part in the anxiety of Great Britain and Iraq over this area. But security appears to have been the most important consideration.[17] The very anxiety of the Iraqi, however, coupled with full appreciation of their inability to withstand Turkey alone, induced them to submerge their grievances against Great Britain and to support her unitedly in her successful diplomatic contest for Mosul before the League of Nations. It may be that, with that question settled, suppressed antagonism of the people among themselves and against the British will emerge, although there have been no signs of such a development as yet.

The frontier difficulties, however, have made military forces necessary. The British have an army of some six thousand and an air force of four thousand in the territory, all paid for out of the British treasury. An Iraq army of eight thousand has been organized, and under the tutelage of British officers it gives an

[17] Wright, "The Mosul Dispute," *American Journal of International Law*, July, 1926.

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appearance of considerable efficiency. The barracks and drill grounds are clean and the men appear well selected, alert, and disciplined. In the general slovenliness of the East the writer remembers with pleasure his inspection of the Army Training Center accompanied by Nuri Pasha, the able deputy commander-in-chief. The troops have exhibited military qualities in putting down some Kurdish troubles in Ruwandiz and Sulaimaniga.[18] It is planned to increase the number of British officers, with a corresponding enlargement of the Iraq forces to twenty thousand.[19] In addition to the Iraq army, there is a police force of six thousand under the department of the interior. Boy scout organizations are flourishing and drilled, and are looked upon as a preliminary military training school. These military organizations, however, have meant a heavy burden of taxation, in spite of the British supply of training officers beyond those specified by the treaty.

Economic recovery is being promoted by irrigation, sanitation, transportation, and oil development. The Iraqi have considerable hope of royalties from the Turkish Petroleum Company, which was given a concession on March 14, 1925.[20] In the long run, however, agriculture is probably more important. In the Babylonian and Persian periods extensive irrigation canal systems traversed Mesopotamia. These steadily declined under the Arab and Turkish régimes. A concession for extensive irrigation of land for cotton culture was given to an Iraq company on July 12, 1924. Because of the expense of irrigation works and the poverty of the country, progress in this development will probably be slow. Completion of the railway between Sharqat on the Tigris and Nisibin on the Turkish-Syrian frontier would complete the Bagdad railway from Constantinople to the Persian Gulf, and would undoubtedly lead to a considerable commercial develop-

[18] Great Britain, Report on Administration of Iraq, April, 1923–Dec., 1924, p. 37.

[19] *Current History*, Jan., 1926, p. 609.

[20] For twenty years after completion of a pipe line for oil export, the Iraq royalty is 4 shillings gold per ton. After that the royalties are to be modified according to the growth of profit or loss. Turkish Petroleum Co. Ltd., Convention with the Government of Iraq, Art. 10.

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ment. The British have constructed several pontoon bridges across the Tigris and Euphrates. Roads are not necessary in dry weather, as motor transport is possible over the flat, hard plains. If Syria becomes peaceful Bagdad will become an important entrepôt for passenger and fast express service by motor from India to the Mediterranean. In wet weather, Bagdad is knee-deep in mud. Road-making is expensive, as materials have to be floated from the foot hills of the Mosul area to the alluvial plains by raft. Lack of sanitation, with consequent heavy infant mortality and sickness, is an economic handicap against which some slight progress is being made. These improvements take time, but Iraq is clearly capable of substantial economic development, and, with a stable administration, a steady increase in wealth may be expected.

The defense and economic problems can be met by patience and technology, supplied by the British advisers. The condition of the people, themselves, however, offers more serious obstacles to self-government. The Arabs remember with pride the great days of the Hashimite, Omayyad, and Abbasid caliphates, and commemorate them in the green, white, and black stripes of the Iraq flag. But historians recall that the success of these dynasties was due to foreign advisers. Their success does not prove the political capacity of the Arab people in the past, and since the Turkish conquest the Arabs have had no opportunity to gain such capacity by experience. The masses are illiterate and politically unconscious. Can they be made into citizens?

Education is being developed with great enthusiasm under the director of education, Satah Beg. New public schools have been established and the normal school is unable to meet the demand for teachers. Twenty-two thousand pupils are in the public schools in Iraq, about one in a hundred of the population, and as many again in private schools.[21] The Waqf, or Sunni Moslem religious foundations, are being utilized for education in the mosques to some extent with the advice of the British adviser for Auqaf, Mr. Cook. Christian missions carry on con-

[21] For purpose of comparison, in Mexico about seven per cent of the population is in school, and in the United States about twenty-two per cent.

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siderable education, although some find that their home boards will not permit the development of agricultural and industrial education to the extent desired by the missionaries in the field. Sixty-two night schools, with 7,000 pupils, have been organized by a voluntary Arab society.[22] The Arab child learns rapidly, especially languages, but seems to acquire mental dexterity rather than solidity of judgment. Many observers think that attention should be given to agricultural and industrial training rather than to liberal education. There is a fear that a plethora of educated Arabs with little opportunity to use their learning except in government will cause undesirable political agitation or an exodus of many of the most intelligent from the country.[23] The excellent American educational institutions in Syria have undoubtedly educated a good many Syrians out of their own country.

Apart from formal education, efforts are made to stimulate civic spirit by frequent parades of boy scouts, police and military organizations, and by efforts to attach loyalty to the person of the king—no easy task, in view of his character as an interloper, and his supposed subordination to British policy. Civic spirit is also developed through propagandizing interest in politics, parliament, and national history, and through advertisement of the benefits of roads, bridges, security, etc., conferred by the government. These efforts are not without effect. Informed opinion seems convinced that civic coherence and national pride have increased steadily in the past five years. This, however, is most obvious among the city dwellers of Bagdad, the center of Arab nationalism. The more commercially minded people of Basra take little interest in politics, and would probably be

[22] These schools were organized by the Nationalist leaders, and there is some fear that they may be used for political propaganda. They receive some financial aid from the government. The students are required to subscribe to the following five principles: 1, to love their country; 2, to be clean; 3, to learn throughout life; 4, to be truthful; 5, to love the good and do it. Teachers are instructed to advise students to take the best from European civilization, and to recognize the necessity of teaching women. After digesting these principles students are instructed in reading and writing Arabic, arithmetic, science, history, geography, and English.

[23] Great Britain, Report on Iraq, 1923–24, pp. 215–216.

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gladly rid of the expense of parliamentary government. The Kurds, who dominate the Mosul area, despise the Arabs, although they prefer the British mandate to Turkey. On the whole, they wish security from their more warlike brethren in Turkish Kurdistan, and will probably be content with the considerable autonomy in education and administration allowed them.[24]

Probably the most marked division of opinion is that between the city dwellers and the tribesmen. The latter, though forming seven-eighths of the population, are controlled by the shieks whose authority the government sustains. Justice is administered among them by tribal arbitration rather than judicial process, and their interest in politics is not great. However, the tribesmen are given an opportunity to vote in the elections, and a considerable number avail themselves of it.[25]

The country is about evenly divided between Sunni and Shiah Moslems, the latter being mostly south of Bagdad and the former north. The Shiahs are more fanatical, and are controlled by their mullahs, who discourage education for the masses. It is generally considered expedient to have at least one cabinet officer a Shiah, though it is hard to find one with the necessary equipment. The king is a Sunni, which adds to his difficulties with the rival sect. There are some forty thousand Jews in Bagdad whose ancestors came with the Babylonian captivity. They are an important commercial element, have little Zionist sentiment, and are respected by the Arabs.

Though these geographic, economic, racial, and religious divisions militate against the sense of nationality, the situation in this respect is much less serious than in Syria or Palestine. These divisions have not furnished a basis for political parties,

[24] Until 1924, Sulaimanya, which is almost entirely Kurdish, was separated from Iraq and directly under the High Commissioner. With the treaty looking toward termination of the British mandate in four years, "an administration was set up which, while respecting Kurdish national susceptibility, should definitely unite this division with the Iraq state, under a system of local control." Great Britain, Report on Iraq, 1923–1924, p. 29. The League's award of the Mosul area to Iraq recommended local autonomy for the Kurdish areas. Wright, "The Mosul Dispute," cited above.

[25] Great Britain, Report on Iraq, 1923–24, pp. 14, 15.

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and perhaps it is desirable that they should not. The illiteracy, lack of civic sense, and scarcity of equipped leadership raises a doubt in some minds as to the success of parliamentary institutions. The British advisers undoubtedly look forward to elections and sessions of parliament with misgiving. Nevertheless the actual operation of these institutions to date has been successful.[26] Under conditions which appeared most inauspicious, the British advisers and the Iraq government have so far kept constitutional institutions going.

We may now glance briefly at the machinery of the government itself. Article 22 of the League Covenant is less specific with regard to countries under A than under B and C mandates, but the mandate and the Iraq treaty contain most of the guaranties found in other mandates. Thus Great Britain assumes responsibility for the integrity of Iraq's territory, for the making of extradition agreements, for the protection of the rights of foreigners and minorities, for maintenance of the open door for trade, missionaries, and archaeologists, for reporting annually to the Council, securing Council consent to any modification of the treaty, and inviting Council decision on further British responsibilities under Article 22 of the Covenant upon termination of the treaty, and for submission of controversies arising out of the treaty to the Permanent Court of International Justice upon failure of negotiation. In addition, Great Britain agrees to provide Iraq with necessary advisers and military and financial support, to assist her in foreign relations and in gaining admittance to the League of Nations; while Iraq agrees to appoint foreign advisers only with British consent and "to be governed by the advice of his Britannic Majesty, tendered through the High Commissioner, in all important matters affecting the international and financial obligations and interests of his Britannic Majesty for the whole period of this treaty."[27] The meaning of this is a little obscure, but apparently it makes British advice compulsory in practically all international and financial matters. By Article I of the mandate Great Britain assumes toward

[26] *Current History*, Feb., 1926, p. 768.

[27] Art. 4 of treaty.

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members of the League "responsibility for the fulfillment by Iraq of the provisions of the said treaty of alliance." Any international and financial obligation of Iraq would be likely to affect this treaty,[28] and so would be an international obligation or interest of Great Britain. The obligation especially in mind, however, was Iraq's share of the Ottoman debt, for which she was made responsible by the treaty of Lausanne.[29]

The organic law previsioned by Article 3 of the treaty, and adopted by the Iraq constituent assembly on July 10, 1924, gives Great Britain ample opportunity to exercise the control of Iraq's policy necessary to meet her responsibilities. Thus all laws and ministerial orders must be submitted to the king, who has an absolute veto (Arts. 62, 65), and consequently an opportunity to prevent action contrary to the advice of the British High Commissioner. Financial measures can be only initiated by the minister of finance (Art. 100), thus affording the British advisers a voice before such measures are considered by Parliament. Measures "for the fulfillment of obligations arising out of treaties" may become legal upon the king's signature without parliamentary consent, and other emergency measures may become temporarily valid in this way during parliamentary interims (Arts. 260, 102, 106). The existing budget may be continued by the ministry if Parliament fails to pass a new one (Arts. 102, 107). Thus parliamentary control of ministers through withholding supply is impossible, though the organic law provides that "ministers of state shall be responsible to the Chamber of Deputies jointly in matters which concern the ministries and severally in what concerns their respective ministries." A further provision, however, permits eight days' delay before a final vote on the question of confidence (Art. 66).

Another check on parliamentary sovereignty is the establishment of a high court consisting of the president and four senators

[28] See especially Arts. 8, 11, and 15 of treaty, which would inevitably be affected respectively by almost any conceivable political treaty, commercial treaty, or financial measure.

[29] Great Britain, Treaty Series, No. 16 (1923), Cmd. 1929, Art. 46. See also Art. 17 of Financial Agreement between Great Britain and Iraq, March 25, 1924. Great Britain, Treaty Series No. 17 (1925), Cmd. 2370.

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and four senior judges, to try political offenses and to "decide questions regarding the interpretation and the constitutional validity of laws." On this point decisions require a two-thirds vote (Arts. 81, 82, 83, 85).

The institutions of government follow the usual model of parliamentary governments. There is an appointed senate of twenty (Art. 31), an indirectly elected chamber of one to every 20,000 male Iraqi (Art. 36), a ministry responsible to the chamber (Art. 66), and the requirement of ministerial counter-signature of royal acts (Art. 27). There is the usual bill of rights (Arts. 5–18), and civil, religious, and special courts are provided (Arts. 68–89), as well as an administration for the local areas with the requirement that municipal and administrative councils shall be established in the towns and districts (Arts. 111, 112). Foreign affairs, war and peace, pardons and amnesty, and convocation, adjournment, prorogation, and dissolution of Parliament are vested in the crown, though treaties require approval of Parliament (Art. 26). The constitution may be amended after five years by vote of two-thirds of each of two successive assemblies of the Chamber and Senate, with approval of the king (Art. 119).

The king, though theoretically a constitutional monarch, might be obliged to use his veto contrary to ministerial advice, upon advice of the British High Commissioner. As has been noted, the present king was not popular on arrival, and though his popularity has probably increased, his position is a difficult one. He must keep in favor with both the British government, on which he depends at present, and the Iraq ministry and parliament, on whose loyal support the ultimate success of his dynasty must rest. He is an industrious worker; some think he is inclined to interfere too much in politics and administration. Others point out that the mass of the people expect a king to be an oriental despot whose word produces immediate results. Constitutional monarchy is unknown to them. Thus the limitations on his power make it difficult for him to attract and hold popular respect and loyalty.

Parliament has thus far behaved with reasonable decorum. Its debates, which are generally public, are published in the

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official gazette, *Lal Waqai Lal Iraqiah*, and are read with interest by the literate public, and often by them aloud to the illiterate, who form in groups for the purpose. There is undoubtedly less political interest in the country than in the city.

Organized political parties, however, have not yet emerged. The economic, geographic, racial, and religious divisions of the people have not proved a party basis, and perhaps it is undesirable that they should. Such rudimentary parties as there are center about personalities, the ins and the outs. The present government, with Abdul Muhsin Al Sa'dun at its head, is supported by the Progressive party and opposed by the Nationalist party, headed by Yassin Pasha, a former premier, who urges a more rapid, though not an immediate, termination of British control. The development of political parties based on something other than personal ambition will be a slow process in the East. Politics there consists of personal intrigue to an even greater extent than in western countries, and this tendency is reflected by the native press, which traffics especially in scurrilous personalities and blackmail.

The Bagdad *Times* and the *Times* of Mesopotamia (Basra) have the largest circulation (over 1,000 each), have sections in both English and Arabic, are under British control, and consistently support British policy. *Al Aram Al Arabi* (Arab World), the next largest, is non-political. *Al Iraq* is the government paper; it lives on government subsidies, and always supports the ins. *Istiqlal* (Independence) has a more nationalistic view, and has been closed eleven times, for attacking either the government or the French in Syria. The British seem to have had nothing to do with these limitations upon freedom of the press, but native governments realize that considerable press control is necessary. *Al Mufid* (The Useful) is a blackmailing sheet much read. The nationalists have been planning a regular opposition paper to be called *Ni Ta Ul Shaab* (The National Voice), but the writer has not heard of its actual appearance. *Al Mosul*, printed in Arabic in Mosul, pursues an opportunist policy, from the Mosul point of view, and *Dijari Kurdestan* (the Kurdish Country), appearing

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occasionally in the Kurdish language, represents this distinctive attitude.

Lord Cromer called the legislative assembly "the least useful and efficient" of the Egyptian institutions, thought it "too much in advance of the requirements and political education of the country," and considered that "no real harm would be done if it were simply abolished."[30] Officials in Palestine congratulate themselves on the absence of a native assembly,[31] and in Iraq one British adviser told the writer that "parliament will be the greatest obstacle to progress." "It has been well behaved," he said, "and in control of moderates, but there is danger that extremists will take the lead and moderates subside altogether." Political fatalism of moderate men leaving politics to extremists is, next to personal intrigue and corruption, the great obstacle to parliamentary government in the East. In general, however, the British in Iraq think the educational value of Parliament will more than offset its disadvantages, and commend its success, which they think has been greater than that of any other parliament in the East. As has been noted, Parliament is seriously limited in its powers because of its incapacity to withhold supplies, but in practice both the Iraq government and the British advisers prefer to persuade rather than to override it. As long as British responsibility under the mandate remains, complete parliamentary government is not likely.

[30] Cromer, *op. cit.*, 278.

[31] One official in Palestine told the writer: "In out of the way countries like Trans-Jordan and Iraq, you can set up a native government, give them advice, and let them go. But if you want progress, you must have direct administration. That is the only way you can get really good administrators." A Lebanese administrator thought: "The people need military government. After years of oppression and misery, they cannot govern themselves. They have the Oriental mind which puts vanity and pride ahead of work and economy. They must be disciplined to work before they can be trusted to self-determination." A French official in Syria said: "France is met by a dilemma. If she gives self-government to the people subject only to her advice, as required by the mandate, corruption and the archaic feudal land system of the Turkish régime will continue. But if she exercises the amount of control necessary to promote social and economic progress, she is accused of colonizing and not mandating." He thought a path might be found between the two horns of the dilemma.

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The ministers have got along admirably, profiting by tactfully given advice of their British advisers. But sessions of Parliament present peculiar difficulties. Under the stress of parliamentary heckling, ministers inexperienced in such situations are likely to commit themselves in an unfortunate manner. Though such commitments may be contrary to their own as well as the advisers' better judgment, having been publicly made they are difficult to evade. On matters within the British reserved veto, especially those involving financial burdens of doubtful justice, like the Ottoman debt, dangerous conflicts between Parliament and the British may arise, but have not done so as yet. The British control, as has been noticed, is applied by way of advice at various stages of the legislative process; hence crises can hardly arise out of a clear sky.

Parliament cannot consider financial matters except on suggestion of a minister who has been fully primed by British advisers. If an unwelcome debate is started in Parliament, the ministry is likely to use its influence in accord with British advice. Consequently it would rarely happen that parliamentary action would send a bill opposed by the British to the king and make it necessary for the High Commissioner, who is the only official directly responsible to the British government, to consider advising his veto. The High Commissioner has contact with the king alone, and his intercourse is of a diplomatic character. Thus even if the High Commissioner should have occasion to interpose his compulsory advice, responsibility for the veto would rest immediately with the king. British control, though effective, is invisible. In this respect it resembles the "boss" system in the United States, but it differs in being defined and limited by the terms of written instruments open to the world.

In matters not within the High Commissioner's ultimate veto, British power is limited to advice, but here also advice is available from the beginning to the end of the process. The advisers are in contact with their ministers in detail as well as in important matters, and all decisions of the cabinet have to go to the king. The latter has to get the advice of the High Commissioner before

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he signs, although in matters not reserved by the treaty he is not obliged to follow it.

Judicial administration presents extraordinary difficulties in the East, because of the ubiquity of corruption, the inadequacy of legal education, and the archaism of the law. European judges in the courts seem the only way of avoiding the first difficulty. The treaty provides that in cases involving foreigners some of the judges, but not always the majority, shall be British. It was only in consideration of such a clause that the powers would concede the abolition of extraterritoriality. The United States, in fact, has not yet concluded a treaty relinquishing this privilege with respect to Iraq, as it has with respect to Palestine and Syria, though negotiations are in progress.

Agreements attached to the treaty of alliance require the president of the court of appeal to be a Britisher if requested by the High Commissioner, and authorizes the appointment of other British judges, of which there are in fact a considerable number. Nevertheless, there has been criticism even of the court of appeal. A case involving lands of the Bahais, a Moslem sect most unpopular with the Shiahs, was decided in 1925 with doubtful justice by a court of five, the two British judges being in the minority. There was not sufficient evidence of corruption, and the Arab judges' view of the law was not impossible; nevertheless it was suspected that political influence was brought to bear.

The high court for political offenses, impeachment, and determination of the validity of legislation, constituted as it is partly of senators and partly of judges, may bring unfortunate political entanglements to the judiciary. The French system of administrative law prevails. Special courts are provided for cases involving officials. The Diwan Khas, composed of the president and three members of the court of cassation and three senior administrative officials, interprets laws and regulations other than the organic law.

Legal education is being developed, but the Arab mind seems not to take kindly to orderly judicial procedure. There is a tendency for Arab judges to hear bits of evidence on several cases before any one is finished, and to follow peculiar rules of

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evidence. Arab lawyers, I was told, can seldom draw up a legal document with the necessary precision. A British official said "the main difficulty in the courts is Arab inefficiency rather than corruption."

The law, which in substance is based on Moslem traditions and in form on the French civil code of 1807 as taken over by the Turks, has not been kept up to date by legislation, and is wholly unsuited to modern economic conditions. The law of personal status and succession is based on the Koran, and administered by the Sharia courts under a Sunni or Shiah Qadhi, according to the majority of the population; and occasionally conflicts of jurisdiction arise with the civil courts. The Christian and Jewish communities have these matters decided by communal spiritual councils of their own sect.

The criminal law is full of concepts strange to Europeans. Thus a man who, while walking with his gun, happened to see his enemy, took deliberate aim, and fired without success, was found guilty of "attempt at manslaughter." The malice necessary to convert manslaughter into murder requires, in Arab opinion, not merely premeditation as defined by common law, but deliberate preparation. If it had been proved that this man formulated the intention of hunting his enemy and killing him when he took his gun from the house, he would probably have been found guilty of "attempt at murder." Arab law seems to regard the sight of an enemy as sufficient provocation to rebut any presumption of malice, thus giving a certain recognition to the persistent feuds.

Among the tribes, feuds are so recognized that the ordinary course of law is wholly inadequate. Mere punishment of the criminal in an inter-tribal murder would not stop the blood feud. To do this, it is necessary to have the agreement of the shieks of the two tribes, accompanied not only by adequate punishment but also by money payment. Thus such cases are settled by tribal arbitration. Ordinary rules of evidence are dispensed with. The word of the shiek of the delinquent tribe is accepted as to the member of his tribe to be punished, and a money payment is arranged by agreement. In this way feuds can be stopped. Because of the desire of the administration to

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accustom the regular judges to formal rules of evidence, this informal process is carried on by special arbitration courts.

The Iraq government, with its king, parliament, ministry, and courts, functions with apparent independence, although the invisible British control is, of course, recognized. The supervision of the League of Nations, however, is not even recognized by the Iraqi—in fact the British administration, on finding that the word "mandate" was unpopular among the Arabs because of its association with African tribes of a lower civilization, with French methods in Syria, and with broken promises of a united Arab state, propagandized the notion that the recognition of Feisal's government terminated mandatory relations. This, of course, was not recognized by the League of Nations, and in fact the document approved by the Council on September 27, 1924, is a mandate in both form and substance. Great Britain is thus in the rather ambiguous position of having a mandate for Iraq *vis à vis* the League, and not having one *vis à vis* Iraq: an ambiguity evident in Lord Parmour's extraordinary speech before the Council on September 19, 1924, in which he said: "Iraq has advanced too far along the path laid down in Article 22 of the Covenant for the particular form of control contemplated in that article to be any longer appropriate. . . . . The treaty and connected documents place the British government in a position *vis à vis* Iraq to discharge their obligations toward the League. . . . It will be found that the various documents taken together cover all the points embodied in the original draft mandate."[32] Though some doubts were expressed in the seventh session of the mandates commission, the final opinion of this body, as well as the documents, make it clear that Great Britain has a mandate in Iraq.[33] In fact the form of the documents seems to comply more accurately with the terms of Article 22, Par. 4, of the Covenant than is the case with any other Class A mandate.

In practice, the League's supervision has hardly come into effect for Iraq. The mandate was not confirmed by the Council

[32] League of Nations, *Official Journal*, vol. 5, pp. 1314-1315.

[33] League of Nations, Permanent Mandates Commission, *Minutes*, 7th Sess., pp. 10–14, 123.

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until the fall of 1924. The first consideration of the mandatory's report by the mandates commission was set for the fall of 1925, but because of the pendency of the Mosul dispute before the Council at the time and the danger of prejudicing this question if the League discussed the administration of Iraq, one-third of which was within the disputed area, it was thought advisable to postpone this matter.[34] Three reports on Iraq have been made by the British administration to the Colonial Office, and before this a review of the civil administration of Mesopotamia was submitted to the House of Commons.[35] The suggestion has been made by members of the opposition party in Iraq that reports to the League should not proceed from the British alone but should previously be submitted to the Iraq parliament. In line with this suggestion, the British have proposed to attach a representative of the Iraq government to the delegation that appears before the mandates commission at Geneva, and the mandates commission has not objected to this suggestion, though inclined to insist that Great Britain alone is responsible to the League.[36] The League's functions cannot be properly exercised without full access to the facts in mandated territories. Lack of information, except such as the mandatory sees fit to submit, has been a serious weakness of the supervision. A right of petition, it is true, exists, but is not very effective in view of the inability of the commission to get authoritative information about the petitioner otherwise than through the mandatory, and the natural unwillingness of petitioners to get into disfavor with the administration of the territory where they reside. On the other hand, petitions from outside the territory are likely to lack weight because of the irresponsibility and inadequate information of the petitioner. Personal contact by the mandates section of the League Secretariat, or official investigation by the mandates commission

[34] *Ibid.*, p. 98.

[35] Great Britain, Review of the Civil Administration of Mesopotamia, 1917–20, by Miss Gertrude Lothian Bell, Cmd. 1061 (1920); Report on the Administration of Iraq, 1920–22, Colonial Office (1922); ibid., 1922–23, Colonial No. 4 (1924); ibid., 1923–24, Colonial No. 13 (1925).

[36] League of Nations, Permanent Mandates Commission, *Minutes*, 7th Sess., p. 94.

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itself, or by the Council on extraordinary occasions, has been suggested.[37] But it appears that in mandated countries where a native government has been set up, comments on the mandatory's report by the parliament, including the opposition, in that government might supply a need. Comments from such a source would be of more weight than petitions from unknown persons. There is, in fact, a precedent for such comments in the annual reports of the Zionist organization, commenting on the British report for Palestine. Comments from a native parliament would be more informing than comments from the native executive, which is in closer contact with the mandatory.

It is still too early to formulate final judgments upon either the adequacy of the government of Iraq for that country or the contribution of the form of government there exemplified toward solving the international problem of backward areas. A few observations, however, may be made. From the purely material point of view, there has been undoubted progress in Iraq since 1921. Order and security have prevailed and production has steadily increased.[38] Has this material progress benefitted the people of Iraq? Taxation has been heavy, but it does not appear that unreasonable profits have gone either to foreign governments or to merchants. The surplus revenue not required for defense and administration has been spent for education, sanitation, transportation, and other improvements of general benefit. The material benefits of good administration seem to have remained in Iraq.

Finally, we may ask, has this increased prosperity improved civilization? Standards for comparing civilizations are wanting. No visitor to Iraq would say that the average happiness of the people equals that of New York, London, or Paris. The children one sees in the streets seldom smile, are often blind or diseased, and always dirty. In art, literature, and science, Iraq certainly cannot compare with Belgium, Norway, or Czechoslovakia, or even with many of the ancient civilizations on whose ruins it

[37] *Ibid.*, p. 123–134; Wright, "The Bombardment of Damascus," *American Journal of International Law*, vol. 20, p. 279.

[38] *Statesman's Year Book*, 1926, p. 186.

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stands. The soft crumbling brick of modern Bagdad, little of which antedates the seventeenth century, compares poorly today with the erect, hard brick walls of Babylon, covered with bas-reliefs, and, except for the crumbling of the glaze, as firm as when built by Nebuchadnezzar twenty-five hundred years ago. Nor can Iraq compare with Europe or the United States in self-government, justice, or capacity of the people to coöperate for common ends. Few acquainted with the situation think the institutions now operating would long continue if deprived of British advice and assistance. But greater prosperity, more general education, and stable institutions encouraging native responsibility and self-government offer the Iraqi a most hopeful opportunity to develop their civilization. The theory espoused by the League of giving backward areas the opportunity to develop themselves is in actual effect in Iraq more than in any other mandated area.

Imperialism as practiced by European nations in Africa, Asia, and the New World has often developed backward areas rapidly, but has frequently exploited or destroyed the natives, closed the door to world commerce, and led to dangerous rivalries among the imperial nations themselves as the available amount of exploitable territory has declined. On the other hand, complete self-determination of backward areas, as manifested during the past century in tropical Latin America and certain countries of Africa and Asia, has often led to insecurity, injustice, and decline in economic production. Furthermore, direct international government in the few cases where it has been tried, as in Samoa, Spitzbergen, and the New Hebrides, has brought bad administration and international rivalry and has generally ended in division of the territory.

The system contemplated by the Covenant seeks to preserve the good and eliminate the bad of each of these methods. By the theory of trusteeship for purposes described in concrete documents, it seeks to preserve the technical advantage of imperialism with elimination of its abuses. By the theory of tutelage of adolescent peoples in defined stages of development, it seeks to gain the benefits of self-determination for the sufficiently

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mature without its risks for the unprepared. By the theory of mandates under the League of Nations, it provides international supervision to assure the good faith of the trustee and the tutor, without the technical disadvantages of direct international government. Operation of the theories of trusteeship and tutelage are best illustrated by Iraq. The documents defining the powers of the trustee are more elaborate than in the case of any other mandated territory. The people have advanced further out of tutelage toward self-government than in any other mandated community. This has happened without as yet any active supervision by the League. The further history of Iraq will test the soundness of the Covenant's theory of the proper relation between advanced and backward peoples.

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SELECTION AND TENURE OF BUREAU CHIEFS IN THE NATIONAL ADMINISTRATION OF THE UNITED STATES II[1]

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II

The Public Health Service, the Coast Guard, and (under very recent legislation) the Coast and Geodetic Survey constitute a special group of bureaus, distinguished by the fact that their heads are selected as a matter of rule from groups of higher subordinates who are originally admitted by non-competitive examinations and advanced under the closed systems of commissioned personnel peculiar to these services.

In the case of the surgeon general of the Public Health Service, the statutes[2] say merely that he shall be appointed by the President with the consent of the Senate. A regulation of the service, however, provides that the surgeon general shall be selected from the commissioned medical officers above the rank of "passed assistant surgeon"—next to the lowest grade.[3] The President

[1] Part I of this article, which appeared in the preceding number of the REVIEW, dealt with the first of four groups in which the bureaus are classified for the purposes of the present discussion, on the basis of the mode of selection and prior experience of the bureau chiefs now in office. Group I comprised the bureau chiefs appointed under the general merit system administered by the Civil Service Commission, covering thirteen units in the Department of Agriculture and, in addition, the National Park Service, the Reclamation Service, the Bureau of Naturalization, the Bureau of Engraving and Printing, and the offices of the Supervising Architect, the Director of Supply, and the Commissioner of the Public Debt.

[2] 18 U. S. Stat. L., 371–377, March 3, 1875.

[3] The Act of Jan. 4, 1889 (25 U. S. Stat. L., 639) required that the medical officers of the service should be appointed after examination and then to the lowest grade of surgeon. The regulations that instituted the semi-military type of organization—recommended by Dr. John S. Billings of the army medical service in 1870—were put in force in 1873, amended in 1878, and recognized and strengthened by the statute of 1889. The writer has drawn here from the manuscript of Robert D. Leigh's exhaustive treatise on *Federal Public Health Administration* (now in press). See also L. F. Schmeckebier, *The Public Health Service* (1923), pp. 167–168.

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presumably could override this regulation, and indeed an opinion of the Attorney General has indicated that his choice is not confined to the list of commissioned officers by any law relating to the service.[4] In fact, however, the principle has been observed in the selection of the four surgeons general appointed since 1879.[5] This system of selecting the heads of the service guarantees training and acquaintance with its problems, but—especially in view of the flexible type of assignments so characteristic of the Public Health Service and so useful in freshening a permanent personnel—the options open to the President and the Secretary of the Treasury are numerous enough to leave room for the possibility of a sort of administrative politics.[6] Dr. Hugh S. Cumming, made surgeon general in 1920 and reappointed for four years in 1924, was originally commissioned in 1894, a year after his graduation from medical school. His official record prior to 1920 was reputable but hardly outstanding; the fact that he was a fellow-Virginian no doubt had much to do with his appointment as surgeon general at a time when Carter Glass was Secretary of the Treasury.

[4] 29 *Opinions of Attorneys General*, 287–293 (Dec. 21, 1911). The regulation in question dated from 1889.

[5] The first surgeon general, Dr. J. B. Woodworth, was a leader in the then emerging public health profession; he had been a Civil War medical volunteer and at the time of his appointment (1871) was connected with the Chicago board of health. Dr. Woodworth having died in office in 1879, Dr. J. B. Hamilton served as surgeon general until 1891, when he was relieved at his own request and recommissioned as a surgeon in the service. His successor, Dr. Walter Wyman, served twenty years and died in office. Neither Hamilton nor Wyman seems to have been extraordinarily distinguished in the service prior to his appointment as head. The choice of Dr. Rupert Blue in 1912 was largely in recognition of his notable anti-plague work in San Francisco. Dr. Blue was reappointed in 1916 and, at the expiration of his second term in 1920, was made an assistant surgeon general at large. There is a tendency, evidently, for the express rule that members of the service cannot be detailed for longer than eight years' duty as assistant surgeons general in Washington to give rise to an analogous convention regarding the limitation of surgeons general to two terms.

[6] The conditions in this service are such, however, that administrative politics easily defeat themselves. It is said that one of the most brilliant members of the Public Health Service, recently an assistant surgeon general, has hurt his chances by too obvious attempts to have himself considered for the position of surgeon general.

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The Coast Guard is assimilated even more than the Public Health Service and the Coast and Geodetic Survey to military conditions. It operates with an enlisted personnel and with commissioned officers drawn from its own academy, whose rank and pay follow specified grades in the navy. Apart from its position in the Treasury Department, however, the Coast Guard is sufficiently civil in nature to belong in the present discussion. The selection of its head naturally follows the traditions of the Revenue Cutter Service, out of which, by juncture with the Life Saving Service, the Coast Guard was formed in 1915. The law provides that he must be taken from line officers who have attained at least the rank of commander—of whom, for example, there were twenty in 1925. F. C. Billard, at present commandant of the Coast Guard with the rank and pay of rear admiral, originally entered the old Revenue Cutter Service by examination in 1894, received cadet training (graduating second in his class), and was commissioned ensign in 1896. He was subsequently assistant to the chief of that service for five years and superintendent of the Coast Guard Academy for four, and he acted as aid to the head of the Coast Guard during the five years before his own appointment as commandant in 1924. His predecessor, W. E. Reynolds, who resigned voluntarily in that year, was developed in practically the same way; he had been forty-one years with the Revenue Cutter Service and the Coast Guard and was senior officer when he was made commandant in 1919, at the time of the retirement of Commandant E. P. Bertholf, head of the Revenue Cutter Service after 1911 and later of the Coast Guard.

Prospectively, at least, the Coast and Geodetic Survey can be classed with the foregoing services, for not only did an act of 1917 authorize a hierarchy of field officers which can be entered only at the bottom after "passing a satisfactory mental and physical examination conducted in accordance with regulations prescribed by the Secretary of Commerce,"[7] but in addition a statute of 1920 specified that the superintendent (who now has the rank and salary of a captain in the navy) shall be appointed

[7] 40 U. S. Stat. L., 84, 88, May 22, 1917.

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by the President with the consent of the Senate "from the list of commissioned officers of the Coast and Geodetic Survey not below the rank of commander for a term of four years, and may be reappointed for further periods of four years each."[8] E. Lester Jones, the present head of the Survey, antedates this system of internal recruitment. His original appointment in 1915 was a half-way instance of promotion, for he had been for two years deputy commissioner of fisheries—a presidential office and his only prior connection with national administration. He has since been reappointed by President Harding and again by President Coolidge. When he withdraws at last from the service, presumably the new closed system of personnel will be invoked in selecting his successor.

The tradition of the Coast and Geodetic Survey has on the whole favored technical training and an absence of partisanship in the selection of directors. Space does not permit an examination of the ten incumbents whose record would carry the story back to Ferdinand R. Hassler's brilliant service from 1816 to 1818 and from 1832 to 1843. Hassler's successor, A. D. Bache, served twenty-five years, and Benjamin Pierce, eminent mathematician, for seven more, but from 1881 to 1897 each director (although usually scientifically respected) was in office only four years. Henry S. Pritchett was put in charge of the Coast and Geodetic Survey in 1897, after fourteen years as director of the observatory at Washington University. He resigned in 1900 to become president of the Massachusetts Institute of Technology and is now president of the Carnegie Foundation for the Advancement of Teaching. Otto Hilgard Tittmann, the next head, had been connected with the Survey since 1867 and was assistant superintendent at the time of his appointment. He voluntarily resigned in 1915 at the age of sixty-five. Mr. Tittmann, at least toward the end of his incumbency, was thought to be losing effectiveness in such matters as pleading the Survey's cause before the committees of Congress. Perhaps this consideration influenced the selection of E. Lester Jones. His preparation for the work after

[8] 41 U. S. Stat. L., 812, 825, June 4, 1920. The title "superintendent" was changed to "director" by a provision of June 5, 1920, 41 U. S. Stat. L., 874, 929.

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his graduation from Princeton in 1898 had been less technical than in the case of his predecessors. One of the scientific journals remarked editorially a year after his appointment: "Jones was deputy commissioner of fisheries when appointed. His appointment to that office and promotion to the head of the Survey in the same department were personal rather than political. He has proved an efficient executive, but his appointment to both these offices certainly violated the principle that these positions should be held by experts."[9] The editorial noted that in this case the Wilson administration had departed from its practice of consulting the learned societies regarding appointments to offices of this type. As a matter of fact, a memorandum from Secretary of Commerce Redfield to the President in 1915 remarked: "I have consulted Mr. Charles D. Walcott, director of the Smithsonian Institution, on the subject of the Tittmann resignation and the Jones appointment, and he thinks it the right

[9] *Scientific Monthly*, August, 1916, vol. 3, pp. 308–9, in an editorial note on "Scientific Appointments under the Government," which was reprinted (together with comment by Prof. E. G. Conklin on the same point) in *Science*, n.s., August 25, 1916, vol. 44, no. 1130, pp. 277–8. The occasion for the editorial is revealed in the opening remark: " . . . . it is of interest to those concerned with science that Mr. Hughes in his first campaign speeches should select as one of his two leading issues the appointments by President Wilson to scientific offices under the government. This would not have been a vital political issue a few years ago, and it is gratifying that it should now have become so." The reference is to the fact that the Republican presidential candidate, speaking at Detroit on August 7, 1916, attacked the appointment of a Southern politician in 1913 as director of the census in place of Dr. E. Dana Durand (infra, p. 783), and the selection of E. Lester Jones in 1915 to head the Coast and Geodetic Survey. On the latter aspect of the matter especially, Mr. Hughes was tempted to over-reach himself by the fact that Mr. Jones once studied veterinary medicine incidentally in connection with a stock-farm that he owned and operated in Virginia during part of the time between his return from some study at German universities and his appointment as deputy commissioner of fisheries in 1913; in the parlance of the stump, that was enough to make him "an excellent stockbreeder and veterinary surgeon." Mr. Hughes' speeches elicited sharp rejoinders from Secretary of Commerce Redfield and others. (See the daily press of August 9, 10 and 11, and the Senate proceedings in the *Congressional Record* of August 10, 1916). On the major question, the editorial in the *Scientific Monthly* already quoted remarked: "Mr. Hughes has not pointed out, as an impartial judge might have done, that the two scientific appointments mentioned are the only ones in which the President is open to criticism, or that he is the first President who officially asked the advice of scientific men on such points."

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policy to pursue." Ten years later a secretary of commerce wrote to a president: "The Coast and Geodetic Survey is, of course, one of the scientific branches of this department and I have felt that continuity of directors is of first importance. Col. Jones may have been originally a Democrat, as he came from Virginia, but he has long since lost all politics. He has been in government service for twelve years, during ten of which he has been head of the Coast and Geodetic Survey. His appointment by President Harding was cordially supported by Republican leaders in the Senate . . . . and, I believe it would be desirable to reappoint him." On March 16, 1925, Mr. Jones was commissioned for another term of four years.

III

The selection of bureau chiefs by promotion is not confined to the positions which are in the classified service or which, as in the case of the three bureaus last examined, are subject to special, internally-administered schemes of examination and advancement. A considerable number of other bureaus wear the same presumptive sign of a non-political status. Viewed from the standpoint of the chiefs who are now in office, the units which fall in this group are the Weather Bureau, the Geological Survey, the Bureau of Standards, the Bureau of Lighthouses, the Steamboat Inspection Service, the Bureau of Fisheries, the Bureau of the Census, the Bureau of Foreign and Domestic Commerce, the Bureau of Labor Statistics, the Children's Bureau, the Women's Bureau, the Division of Conciliation, and also (although less clearly) the Employment Service, the office of the Comptroller of the Currency, and the Mint.

The chief of the Weather Bureau is the only bureau head in the Department of Agriculture who is appointed by the President with the consent of the Senate, and who, therefore, is not in the classified service. There have been only three chiefs, however, in the thirty-four years since the service (with its then existing personnel nearly intact) was transferred from the signal corps of the army to the Department of Agriculture in 1891.[10] The

[10] 26 U. S. Stat. L., 653, October 1, 1890.

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second of these, Willis L. Moore, was appointed in 1895. He had already been long in the work, rising through the various grades, and in 1894 had been chosen to a professorship of meteorology in an open competitive examination. Professor Moore was removed by President Wilson on April 16, 1913, on the ground that he had used his office in promoting his own candidacy for the post of Secretary of Agriculture.[11] Charles F. Marvin, the present chief, was then selected by an interesting procedure. There were few direct applicants, but one of these, although almost unknown as a scientist, had the insistent backing of a senator from Mississippi. A departmental memorandum[12] describes how the pressure was avoided and the field was canvassed:

"... In his search for a successor to Professor Moore, Secretary Houston wrote letters to the leading university presidents and scientists in America asking for suggestions, canvassed the matter with all the gentlemen connected with the government who had information and knowledge bearing on the situation, considered every man in the Weather Bureau itself, sought interviews with committees of the American Association for the Advancement of Science and requested the advice of the National Academy of Sciences ..... Particularly helpful was a committee of the National Academy of Sciences ....[13] This committee

[11] After an investigation by the Department of Justice, thirty-nine employees of the Weather Bureau were suspended or otherwise disciplined in April, May, and June, 1913, for alleged activities, inconsistent with official duties, in behalf of Mr. Moore's candidacy. Admitting that Mr. Moore yielded to the well-known "last infirmity" and made serious errors of judgment, it was generally agreed that during his long tenure he had done much to build up the Weather Service.

[12] Prepared in 1921 for the information of the incoming president, but paraphrased largely from correspondence that passed between Secretary Houston and President Wilson in 1913.

[13] The committee consisted of Professor W. Campbell of the Lick Observatory, Dr. A. Day, secretary of the Academy, Prof. E. L. Nichols of Cornell, Prof. E. C. Pickering of Harvard, Dr. Ira Remsen of Johns Hopkins, Dr. Elihu Thomson, director of the Thomson Laboratory of the General Electric Company, President Van Hise of Wisconsin, Dr. William H. Welch, president of the Academy, and Dr. R. S. Woodward, president of the Carnegie Institution, chairman. The initiative in the direction of such a committee was taken by the adoption of a resolution proposed by Dr. Cattell at the meeting of the council of the American Association for the Advancement of Science on April 22, 1913.

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very carefully considered the names of twenty-three scientists of more or less note, finally eliminating all except the following: Professor E. B. Rosa, Professor C. F. Marvin, Lyman J. Briggs, and Professor A. G. McAdie . . . . ."

Of the four, all but Dr. Rosa (the brilliant chief physicist of the Bureau of Standards, since deceased) were at that time on the staff of the Department of Agriculture. On the basis of administrative desiderata, the Secretary narrowed the choice to the two first named, and finally decided on Marvin because " . . . . while it was believed that Dr. Rosa possessed a slightly greater administrative capacity than Professor Marvin, it was felt that Professor Marvin's more intimate knowledge of the Weather Service and its problems abundantly justified his selection. Accordingly, a recommendation went forward to the President on June 18, 1913." Mr. Marvin's nomination by President Wilson followed as a matter of course. He was not disturbed by President Harding in 1921.

The position of director of the Geological Survey, although a presidential office, is as definitely beyond the play of partisan considerations and as well-protected by a tradition of stability as any in the whole range of the bureaus. In 1879, when Congress, on the recommendation of the National Academy of Sciences, established the new organization[14] to take the place of scattered and sporadic surveys, the first director was Clarence King, who as early as 1867 had been the civilian in charge of one of the surveying projects under the War Department. Major John Wesley Powell, famous in American explorations, succeeded him in 1881, serving until 1894. The third director, Dr. Charles D. Walcott (at present secretary of the Smithsonian Institution and vice-chairman of the National Research Council) had entered the U. S. Geological Survey in 1879, after three years with the New York state geological survey, and in 1892 had risen to the position of geologist in charge of matters of geology and paleontology. Dr. Walcott served as director from 1894 to 1907. The fourth director, George Otis Smith, has been in office since

[14] 20 U. S. Stat. L., 377, 394.

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1907.[15] Immediately following his graduation from Colby College in 1893 he joined a Geological Survey party as field assistant and when he had obtained his doctor's degree from Johns Hopkins in 1896 he received a regular appointment as assistant geologist. At the age of thirty-six, with fourteen years of bureau experience behind him, he was appointed director by President Roosevelt when Dr. Walcott resigned to become the head of the Smithsonian Institution.

At the time the Bureau of Standards was created by statute in 1901, the Office of Standard Weights and Measures in the Treasury Department, out of which it directly evolved, had only eight employees.[16] In the years since, while growing to its present stature, it has been under only two directors, and the tenure of the first nearly bridged its whole development. Dr. Samuel W. Stratton, director from 1901 to 1923, was a teacher of mathematics, physics, and electrical engineering at the University of Illinois from 1886 to 1892 and was subsequently at the University of Chicago, where he was professor of physics when he was nominated by the President to head the new bureau, with the work of which he was already acquainted.[17] When Dr. Stratton resigned in 1923 to become president of the Massachusetts Institute of Technology, he was replaced through what was virtually the promotion of Dr. George K. Burgess, then chief of the division of metallurgy. Dr. Burgess, upon finishing his graduate work in 1901 and after a brief academic experience as an instructor in physics, joined the Bureau of Standards in 1903 as an assistant physicist at a salary of $1,800. In a departmental memorandum in 1921, when his advance from $4,800 to $5,200

[15] Dr. Smith, at his own request, was relieved of the directorship from Sept., 1922, to Sept., 1923, in order to give full time to the work of the U. S. Coal Commission, of which he was a member. For the purposes of this article, this hiatus is disregarded altogether.

[16] Gustavus A. Weber, *The Bureau of Standards* (1925), p. 40.

[17] "In the interval between the enactment of the law, March 3, and the date when it was to take effect, July 1, 1901, preliminary plans were prepared by the Office of Standard Weights and Measures. This work was facilitated by the fact that the Inspector of Weights and Measures under the old régime, Dr. S. W. Stratton, was appointed Director under the newly created Bureau." *Ibid.*

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was under consideration, Dr. Stratton wrote: "Dr. Burgess has several times refused offers of far greater salaries from industrial organizations, feeling that he could be of much greater service to industry as a whole by remaining at work here on their fundamental problems."

Lighthouse administration was conducted by a board from 1852 down to 1910, when the Bureau of Lighthouses was established by act of Congress under a commissioner appointed by the President alone. Thus far, George R. Putnam has been the only incumbent. In 1891, the year after his graduation from the Rose Polytechnic Institute, he entered the Coast and Geodetic Survey as an aid at a compensation of $25.00 per month with subsistence, and subsequently rose through every grade of its field force. A decade after his original appointment, in recommending his advance to $2,000, the head of the Survey wrote to the Secretary: "Mr. Putnam by comparison with the other assistants in the Bureau is best entitled to promotion by reason of his ability, experience and the zeal and fidelity displayed in the discharge of his duties." The crucial factor in his promotion to fill the new office of commissioner of lighthouses is revealed in a letter on June 30, 1910, to the Secretary of Commerce and Labor, Mr. Nagel, from Henry Pritchett, then head of the Carnegie Institution, but formerly director of the Coast and Geodetic Survey:

"I venture, as the member of the Lighthouse Board longest in service, to make a single suggestion regarding the legislation now under consideration by Congress. . . . . I venture to suggest for your consideration in this connection, should the bill pass, the name of Mr. George R. Putnam, the head of one of the divisions of the Coast Survey. I sent Mr. Putnam to Manila in 1900 to organize the surveys of the Philippine Islands. He remained there six years and did a most admirable work. He has in addition carried out very extensive surveys in Alaska and is now at the head of one of the divisions in the Coast Survey work. I do not believe you could find a better qualified man than he to undertake this service. Such a man ought to have not only personal and professional qualifications, but he ought also to know government service; otherwise he will have many mistakes to make and

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many difficulties to overcome before he can bring the service into good working order."

Mr. Pritchett added that he preferred Mr. Putnam to a certain subordinate long in the lighthouse work who was mentioned for the post, because he feared the latter was too "thoroughly imbued with the traditions of business already existing in the service. . . ." Mr. Putnam was duly appointed and confirmed.[18]

A unit dealing with fisheries has existed since 1871,[19] although it was an independent body until the creation of the Department of Commerce and Labor in 1903. The first commissioner, Professor Spencer F. Baird, served for sixteen years. The periods of service of the four ensuing incumbents were short. The shadow of politics fell very definitely over the bureau in 1898, when a Republican senator from West Virginia is said to have presented a political promissory note, so to speak, which the new Republican president reluctantly paid by appointing George M. Bowers, active in West Virginia politics but without scientific training or experience. Mr. Bowers was removed in 1913 at the instance of Secretary Redfield.[20] His successor, Dr. Hugh M. Smith, was a

[18] Following the change of party in 1913, some sniping was attempted by at least one Congressional delegation. In August, 1913, three Representatives from one of the South Atlantic states called at the White House, complaining of neglect of the lighthouses in their district and incidentally urging the appointment as commissioner of a person whom they named. At the same time, one of the Senators from the state in question wrote to the President's secretary: "I understand that there is great complaint at Mr. Putnam's administration of the office now because he has brought strangers into the South—carpet-baggers, as it were—and put them over our people." The Maritime Exchange, however, protested against any disturbance of the office for political reasons, and Secretary Redfield wrote to the president of the American Steamship Association: "It is my very earnest belief that the head of an important scientific service of this kind should not be subject to change for political reasons. Your letter is a support which I appreciate in this direction."

[19] 16 U. S. Stat. L., 594, Feb. 9, 1871. The independent unit was called the U. S. Commission of Fish and Fisheries; it was renamed Bureau of Fisheries when attached to the newly created department in 1903. Spencer F. Baird was virtually the creator of the unit as well as its first commissioner; during much of the time he was also head of the Smithsonian Institution.

[20] Mr. Bowers' successor was appointed from candidates recommended by a committee representing the American Society of Naturalists and the American Zoölogical Society. It is understood that in 1898, when a similar committee approached President McKinley, he informed them that he was not free to follow their

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Fisheries man, having entered the service in 1886 at the age of twenty-one. He acquired scientific training; he rose through various scientific grades, and was deputy commissioner of fisheries from 1903 to 1913. After nine years at the head of the bureau and thirty-six years of service in it, his resignation was requested late in 1921. The reasons were said to be more administrative than political; they remain too obscure, however, to permit comment here.[21] Henry O'Malley, the new commissioner, is as thoroughly bureau-trained as was Dr. Smith. He, too, entered its employ at twenty-one, starting as an apprentice fish culturist. He had charge of the bureau's work in the Columbia River watershed for six years and of the fish-cultural work on the Pacific Coast for three years more. From 1916 to 1918 he was at Washington as chief of the division of fish culture. At the time he was appointed commissioner he had charge of all phases of the

advice. Regarding Mr. Bowers' incumbency, a scientist long in high position in another branch of the government with unusual opportunities for observation—although admitting the political instigation of the original appointment—informs the writer: "Bowers made a very good commissioner and did not interfere with the scientific work." Subsequently to his removal, Mr. Bowers was a member of four Congresses. The guess may be hazarded that his obvious resentment at his removal may have remained a disturbing factor in the bureau's affairs as late as 1921–22.

[21] Dr. Smith is at present fisheries adviser to the Siamese government. The explanation of his virtual removal which is perhaps most charitable to all concerned was given to the writer by a person then in touch with Fisheries' matters, as follows: " . . . . Secretary Hoover was concerned about the critical condition of the Alaska salmon fisheries and desired a more rigorous policy of regulation. . . . . I have always felt that had Dr. Smith's knowledge of Alaska fisheries been as thorough as that which he had concerning other fishery matters he would have remained in office. I have also felt that under the circumstances his removal probably was justified, but that considering his long service, ability and reputation the removal was accomplished in an unnecessarily offensive manner." Apparently Dr. Smith learned of his impending displacement through the innocent and embarrassed Mr. O'Malley, whose appointment was held up in the meantime and "a political dog fight precipitated with several other candidates." The writer's informant remarks: "It is also my understanding that this discreditable and discourteous phase of an otherwise legitimate transaction was dictated by a Mr. Houston, then assistant secretary of commerce, a politician from Tennessee." The writer has been unable to get any explanation from the Department itself other than a brief note from Secretary Hoover, saying (apropos of the sentence in the text above): "It seems to me that the statement you make reflects somewhat on Dr. Smith, as to whose services and ability as a scientist there should be no such reflection." What can the writer say?

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work on the Pacific Coast, not including, however, the sorest point of all—the seal-herds on the Pribilof Islands.

The Steamboat Inspection Service in the Department of Commerce has police rather than scientific functions, but the idea of internal recruitment and long tenure for the supervising inspector general seems to be well established. In the five years immediately following the creation of the office in 1871[22] as many as four persons held it in quick succession. It was soon stabilized, however. The fifth supervising inspector general was in office continuously from 1876 to 1903, and George Uhler, who succeeded him, served until the end of 1925. Dickerson N. Hoover was appointed supervising inspector general on January 16, 1926. In 1903, when twenty-three years of age, Mr. Hoover entered the service by examination, beginning as a clerk at $1,000 to a local board of inspectors of steam-vessels. Later in the same year he was promoted to another field position and then transferred to the Washington office. He rose through various duties to the position of chief clerk and meanwhile gained a law degree. After 1911 he was deputy supervising inspector general. At the time of his appointment as supervising inspector general he had been in the service for twenty-three years. They had not been passed without impatience. In 1908, for example, he addressed a request (fortunately, it seems, one that was not granted in the form asked) for a transfer to some bureau where "opportunities are more favorable for promotion . . . ." A little while later he received a special assignment to assist in the preparation and rating of examination papers of applicants for local inspectorships. His promotion was not automatic; when he was made chief clerk in 1909 it was over the heads of two clerks of a higher salary grade and one of the same grade who had been longer in service. Thus are civil service careers sometimes made.

William M. Steuart, present director of the census, was appointed to the position in 1921 at the age of fifty-nine. His

[22] 16 U. S. Stat. L., 440, 458, Feb. 28, 1871, which says that the supervising inspector general " . . . shall be selected with reference to his fitness and ability to systematize and carry into effect all the provisions of law relating to steamboat-inspection service."

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connection with the census work—necessarily intermittent in the case of early censuses—went back to 1880; he was chief of a census division in 1890 and 1900 and chief statistician for manufactures from 1902 to 1917. He then served for two years as secretary and statistician of the Tariff Commission, before returning to the Census Bureau in 1919 as assistant director. Fluctuations in the type of chief have existed since the Census Bureau became a permanent agency in 1902.[23] The bureau's technical problems are very great, but the periodic expansion under pressure creates an unusual need for administrative driving-force; at the same time, the lump-sum appropriations and large number of temporary positions have made the census a natural butt of politics. Simon N. D. North, director from 1903 until 1909 (later statistician of the Carnegie Endowment for International Peace) had been a newspaper-man, secretary of a national trade association, and chief statistician for manufactures in the census of 1900. Dr. E. Dana Durand, director from 1909 to 1913 (subsequently professor of statistics at the University of Minnesota and at present chief of the division of statistical research of the Bureau of Foreign and Domestic Commerce), had behind him a rich and varied technical experience, although only one year of it had been in census work. He was deputy commissioner of corporations at the time of his appointment as director of the census. Perhaps the fact that his direction was thought by the incoming administration to have been marked rather by technical than by administrative aptitude invited a change in policy regarding this office. The appointments of 1913 and 1915 were obviously political.[24] William J. Harris (at present United States senator

[23] The census unit was not made permanent until 1902, but was organized afresh in each decennial period. There was some continuity of staff, however. Joseph C. G. Kennedy had charge both in 1850 and in 1860; Francis A. Walker, who was president of the American Economic Association and the American Statistical Association and in his time perhaps the leading economist and statistician in the United States, directed the censuses of 1870 and 1880. His successors as superintendent were a newspaper man in 1890 and in 1900 a banker and business man who had been governor of Minnesota. Walter F. Willcox, "The Development of the American Census Office since 1890," *Political Science Quarterly*, XXIX, 438–459 (Sept., 1914).

[24] An unsigned comment in the *Journal of Political Economy*, July, 1914 (XXII, 691), said: "The condition of the U. S. Census Bureau is again alarming scientific

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from Georgia) was named shortly after the inauguration of the new administration; confirmation of his appointment was recommended by the Senate committee on census by a strictly party vote. He had long been in the insurance business, and he was chairman of the Democratic state committee. In 1914—after less than a year's actual service—Mr. Harris announced his resignation in order to run (unsuccessfully, as it turned out) in the gubernatorial primary; in 1915 he was appointed to the Federal Trade Commission. His successor as director of the census was Sam L. Rogers, whose training had been gained as a clerk of court, collector of internal revenue, and member for twelve years of the state corporation commission of North Carolina. The selection of William M. Steuart by promotion in 1921 introduced another phase in the still undefined tradition of the office.

The present director of the Bureau of Foreign and Domestic Commerce, Dr. Julius Klein, reached the position in 1921 by what was virtually promotion from within the service. Graduating from California in 1907, he completed his advanced work at Harvard in 1915, with some study and research abroad both before and afterwards. His active connection with the Harvard graduate school of business administration was broken when, in 1917, he entered the Bureau of Foreign and Domestic Commerce through a non-competitive examination.[25] For two years he was at the head of the division of Latin American trade, and for another year he was commercial attaché at Buenos Aires. He had resigned to resume academic work at Harvard when he was appointed chief of the bureau. The history of this office since 1912 (when the Bureau of Foreign and Domestic Commerce

students of statistics . . . . . Subsequent to the virtual removal of the head of the bureau at the opening of the Wilson administration, there was a return to the old idea of placing in charge of the organization a man without statistical knowledge or experience. . . . . During the administration of Mr. Harris, the bureau has continued to sink in prestige . . . . ." Dr. Durand was displaced before the completion of the publication of the 1910 census—a thing that seemed unfortunate in itself; certainly it is hard to apportion responsibility under these circumstances."

[25] Permitted by Rule III, sec. 2, in connection with certain positions enumerated in Schedule B.

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was formed through the combination of the bureaus of statistics and manufactures[26]) has been marked by little politics but by so many shifts as to leave in doubt its stability of tenure in a field that offers many paths of approach and many attractive avenues of departure.[27]

Young as are most of the branches of the Department of Labor, not to mention the department itself, it contains three bureaus whose present heads, though presidential appointees, have been chosen from within the service: the Bureau of Labor Statistics, the Children's Bureau, and the Women's Bureau. In addition, the positions of director of conciliation and director of the employment service—which are filled by the Secretary of Labor but which are exempt—are held by persons who were in the Department at the time of their appointment.[28]

[26] 37 U. S. Stat. L. 360,407, Aug. 23, 1912. Cf. L. F. Schmeckebier and G. A. Weber, *The Bureau of Foreign and Domestic Commerce* (1924).

[27] Dr. Klein is the sixth director (or chief, as the position was termed before 1919) since the establishment of the bureau in 1912. The first chief, Albertus H. Baldwin, was the head of the former Bureau of Manufactures, and before that was chief clerk of the Department of Commerce and Labor, having advanced since 1884 through civil service positions in as many as five departments, on the basis of college and other educational preparation that had little to do with business. He later became a commercial attaché and is now in banking. Dr. E. E. Pratt was specifically trained for commercial and industrial investigations and was manager of the industrial bureau of the Merchants' Association of New York when appointed chief in 1914; he left in July, 1917, when his relations with the President and the Secretary of Commerce had become strained; he now has business and chamber of commerce connections. Burwell S. Cutler, chief from 1917 to July 14, 1919, came directly from private business and returned to it. Phillip Kennedy, who served until June 30, 1920, was commercial attaché in London at the time of his appointment; he is now vice-president of a bank. Professor Roy S. MacElwee was assistant director of the bureau under Kennedy, and director until March 31, 1921; he is at present harbor commissioner at Charleston, S. C.

[28] The Bureau of Industrial Housing and Transportation in the Department of Labor is omitted from consideration in the body of this paper, on the ground that it is merely the war-time Housing Corporation in process of liquidation. Robert Watson has been head of this bureau and president of the Housing Corporation since 1920. He was appointed by the Secretary of Labor, but his position is exempt under a ruling of the Attorney General relating to the applicability of civil service rules to government-owned corporations. Mr. Watson is a seasoned civil servant. In 1906, at the age of twenty, he entered the immigration service as a clerk; he was chief clerk of the Department from 1913 to 1917, assistant director of the U. S. Employment Service and assistant to the Secretary of Labor from 1918 to 1920.

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The history of the Bureau of Labor Statistics really runs back to 1884.[29] Of its four heads since that time, only the present commissioner has been promoted directly from the service. Carroll D. Wright—in his day perhaps the most notable economist and statistician in public office—served from the establishment of the bureau until 1905. Dr. Charles P. Neill was appointed directly from academic life, although he had touched the government service briefly as assistant recorder of the anthracite coal commission in 1902. Despite some opposition by Southern senators from a textile region, he was reappointed by President Wilson and confirmed in 1913, but almost immediately resigned to go into commercial research. The choice of Dr. Royal Meeker, professor of political economy at Princeton University, was undoubtedly influenced in part by the element of prior professional association with President Wilson. When Dr. Meeker resigned in 1920 to become the head of the scientific division of the International Labor Office, and, later, of the department of labor and industry of Pennsylvania, Ethelbert Stewart was given a recess appointment. President Harding confirmed it by a permanent appointment in 1921 for the four-year term that the statute regarding the office formally provides, and President Coolidge reappointed Mr. Stewart in 1925. "Facts and Figures" Stewart (in the affectionate term of more than a generation of civil servants and social workers) was a journalist in his youth and was introduced to statistical work as a member of the Illinois board of labor commissioners in 1885. He joined the United States Bureau of Labor in 1887 at the age of thirty, and, except for two years with the Tariff Board and Children's Bureau in 1911–13 and for some war-time assignments, he has been continuously in its service for nearly thirty-nine years, being chief clerk and chief statistician after 1913.

[29] 23 U. S. Stat. L. 60, June 27, 1884, which created a "Bureau of Labor" in the Department of the Interior. It was renamed the "Department of Labor" and made an independent unit by the act of June 13, 1888, 25 U. S. Stat. L., 182. In 1903, under the name "Bureau of Labor," it was transferred to the newly created Department of Commerce and Labor. In 1913 it was rechristened the "Bureau of Labor Statistics" and was placed in the Department of Labor.

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Miss Grace Abbott, the second head of the Children's Bureau and its chief since the resignation of Miss Julia C. Lathrop in 1921,[30] had an impressive record as a teacher, as executive secretary of the Massachusetts immigration commission, and as director for nine years of the Immigrants' Protective League before she became connected with the Children's Bureau in 1917. She was then made director of its child labor division, in charge of the enforcement of the first child labor law. In 1919, after special war-time work in connection with the War-Time Policies Board and the first international labor conference, Miss Abbott left the service of the United States Department of Labor for nearly two years, acting as executive secretary of the Illinois state immigrants commission. Despite this break, however, her appointment to be chief of the Children's Bureau in 1921 can really be treated here as an instance of selection of a bureau head by promotion, quite apart from the deeper sense in which Miss Abbott carries forward the points of view which, through training in the same school of social thought and through intimate personal association, she has in common with her honored predecessor.

The justification for treating as an instance of promotion the appointment of Miss Mary Anderson to be chief of the new Women's Bureau in 1920 lies in the fact that in 1918 she joined the women in industry section of the Council of National Defence and later was assistant to Miss Mary Van Kleeck, the head of the Women in Industry Service out of which the Women's Bureau directly evolved.[31] In 1919 she succeeded to the post on Miss Van Kleeck's resignation. The salient phase of Miss Anderson's valuable background for her present task, however, lay outside government service altogether. An immigrant from Sweden in 1888 at the age of sixteen, Miss Anderson entered industry as a worker. As early as 1894 she had become president of Local 94 of the Boot and Shoe Worker's Union, and she served

[30] Miss Lathrop, originally appointed in 1912, was not disturbed by the new administration in 1913, although there was gossip of a movement in behalf of the widow of a recently deceased Louisiana congressman.

[31] The transformation was recognized and completed by the act of June 5, 1920, 41 U. S. Stat. L., 987. It provides that the director of the Women's Bureau shall be a woman.

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on the national executive board of this union from 1905 until 1919. After 1910 she was the national organizer of the Woman's Trade Union League.

The Division of Conciliation is an embryonic bureau in the Department of Labor which is growing up around the Secretary's authority to mediate in labor disputes and to appoint commissioners of conciliation.[32] Hugh L. Kerwin, director since the service first took form, was private secretary to his fellow-townsman, William B. Wilson, from 1911 to 1913, while Mr. Wilson was in the House of Representatives and chairman of the committee on labor, and he followed Mr. Wilson into the newly instituted Department of Labor, first as private secretary, then as assistant. He had charge of the war-time conciliation work of the department and was designated director of conciliation in 1918.

The United States Employment Service is now only the shell of a bureau. The director is appointed by the Secretary of Labor, but under an executive order of June 3, 1921, positions in the service may be filled without regard to civil service rules. Francis I. Jones—the second director general since the service emerged as a separate unit under war-time conditions—was at one period of his life in the hardware and plumbing supply business; for eight years, he was a postmaster under Republican administrations, and afterwards he was interested in mining in the West. He had charge of the Pittsburgh district of the employment service during the war and organized western Pennsylvania for it. His appointment as director, therefore, was sufficiently an instance of promotion to warrant its treatment here, but it bears other evidences of a political admixture than the fact that it dates from 1921.

The present director of the mint, Robert J. Grant, was advanced to this position from the post of superintendent of the Denver mint in 1925 when F. E. Scobey, old-time friend of the late President Harding, returned to business. Superficially

[32] Commissioners of conciliation are specifically excepted positions under Civil Service Rule II, sec. 3, Schedule A, subd. XIII. The director of conciliation is appointed by the Secretary of Labor.

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considered, Mr. Grant's appointment as director can be classed as an instance of promotion. His service in the Denver office was recent, however, dating from 1921; previously he was engaged in mining in Colorado and Arizona. This is indeed a tenuous example of internal recruitment, especially in view of the practice in the selection of the twenty-three prior directors of the mint. Before the Civil War, it is true, some served for relatively long terms; the four directors between 1795 and 1851, for example, were in office eleven, eighteen, eleven, and sixteen years respectively. Since the Civil War, tenure has been short, although (probably because of the statutory five-year term) not so immediately responsive to changes in the White House as in the case of other presidential offices of this general type.

Serious doubts must also accompany the classification of the comptroller of the currency among the bureau chiefs who were selected from within the government service.[33] The office has never been stable; there have been sixteen comptrollers since 1863 and one-third of these served two years or less. The training has been miscellaneous, usually in private enterprise, but the fact that the office has had to do with the supervision of national banks and in recent years has involved important duties under the Federal Reserve Act has tended to put a premium on banking experience. Tenure has been unfailingly affected by politics, although in 1921 President Harding appointed a banker-friend from Marion who was a Democrat. Joseph W. McIntosh, appointed comptroller of the currency in December, 1924, was at the time director of finance of the Emergency Fleet Corporation; before that he was chief of subsistence in the American Expedi-

[33] Qualifications of a different sort would be attached to the Bureau of the Budget if it were included at all in this survey. The present director, Brig. Gen. Herbert M. Lord, appointed in 1922 on Mr. Dawes' resignation, was assistant director during the first year of the bureau's existence. A graduate of Colby College in 1884, General Lord was newspaper man and clerk of the House ways and means committee in early life; he entered military life temporarily in 1898 and permanently in 1901. During the World War, he was Army Liberty Loan Officer. The relation of the Budget Bureau to the President is unique, and the fact that General Lord was promoted to his present position still leaves unanswered the important question of the relation of the budget function to politics. The whole matter is passed over here as a separable problem.

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tionary Forces. His connection with the government had thus been brief. Essentially, his experience had been as a member of the staffs of banks, as a departmental manager for Armour and Company, and as receiver and later vice president of the Western Stoneware Company.

IV

There remain for consideration eleven bureau chiefs now in office who did not serve in national administration prior to their appointment at the hands of President and Senate.[34] It is significant that in all such cases the appointment occurred subsequently to the inauguration of a new party régime in 1921. This does not mean, of course, that all of these positions have a political status. The Bureau of Mines happens to fall in this group because its new director was taken directly from the field of commercial mining, but no one suggests that partisan considerations were operative. Partisan motivation was indeed indicated in the circumstances under which the head of the Bureau of Education was forced out to make way for a new commissioner in 1921, but this single situation hardly warrants declaring the office to be one that prevailingly oscillates with party fortunes. The inclusion of the Bureau of Navigation needs less qualification, for the fact that the last commissioner served continuously from 1893 to 1921 was exceptional in the history of this bureau and he, moreover, was originally brought in from an unrelated field of private employment. The central machinery of the customs service is new and still in flux, although tending thus far toward the recognition of the party factor in the choice of the director. No qualification is required in connection with the inclusion of the other bureaus of the group: Patents, Immigration, the General Land Office, Indian Affairs, Pensions, Internal Revenue, and the office of the Treasurer of the United States.

The directorship of the Bureau of Mines has never been

[34] The director of customs is appointed by the Secretary of the Treasury, but the present incumbent was exempted from civil service restrictions by a special executive order (*infra*, p. 799), and for this reason the customs service was not classified with the first group of bureaus. All of the other heads of bureaus treated in the fourth group are appointed by the President with the consent of the Senate.

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political. Dr. John A. Holmes, head of the bureau from its establishment in 1910 until his death in 1915, had in a very real sense fathered it while serving with the Geological Survey as chief technologist in charge of mine accident investigations; before that he had been four years in charge of the Survey's laboratories for testing fuels and structural materials, having come originally to the work after thirteen years' experience as state geologist of North Carolina. Dr. Van A. Manning, second director of the Bureau of Mines, had been continuously with the United States Geological Survey from 1885 to 1910; he was assistant director of the new bureau from 1911 until he was appointed to succeed Dr. Holmes. When Dr. Manning resigned in 1920 to become director of research of the American Petroleum Institute, Dr. F. G. Cottrell—assistant director at the time—took charge of the bureau for part of a year on the understanding that he wished to withdraw as soon as a permanent head could be found.[35] His successor, H. Foster Bain, was not actually in government service when he was made director in 1921. He had, however, been assistant director of the Bureau of Mines during the World War. Apart from seven years' experience as an editor of mining publications, moreover, his work had been mainly in the field of public administration; he had been connected with the Iowa Geological Survey for seven years, with the United States Geological Survey for two, and he had been director of the Illinois State Survey. Mr. Bain resigned as head of the Bureau of Mines in 1925 in order to become secretary of the American Institute of Mining and Metallurgical Engineers. The new director, Scott Turner, has behind him no civilian government service except a few months with the Geological Survey just after his graduation from Michigan in 1902 and prior to graduate work in the Michigan College of Mines. Mr. Turner's experience has been in practical mining in many countries and climes. In recommending his appointment, Secretary Hoover (to whose

[35] Dr. Cottrell shortly afterwards became director of the Fixed Nitrogen Research Laboratory in the Department of Agriculture. See this REVIEW, August, 1926, pp. 563–4. Mr. Bain was nominated while Mr. Wilson was still president, and was re-nominated and confirmed under the new administration.

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department the Bureau of Mines was transferred by executive order in 1925) put it forth as the unanimous recommendation of an advisory committee appointed by him to look constructively into the affairs of the bureau.[36]

"To a degree equalled, perhaps, by few other governmental organizations," observes a student of the statutory history of the agency for research in educational problems which has existed in the Department of the Interior since 1867, "the work of the Bureau of Education has been a reflection of the personality of the commissioners.[37] Commissioners have naturally been drawn from the educational field, but so varied is this field that experience in it may or may not be preparation for the bureau's work. The present commissioner, John J. Tigert, was professor of psychology in the University of Kentucky at the time of his appointment in 1921; he had touched administration as president of the Kentucky Wesleyan College between 1909 (he was twenty-seven then) and 1911, but not in connection with the public school system. In teaching, his special line was said to be "com-

[36] The chairman of this committee announced at the time: "It is believed that the appointment of Mr. Turner will conserve the ability of the various divisional heads in the tasks to which they have been devoting themselves, and promote . . . . the extension of the Bureau's service in the economic and industrial development of the country." H. Foster Bain, the retiring director, was a member of the committee and proposed the name of Mr. Turner. In a personal letter to the writer, Mr. Bain says: "Cottrell first, and later I, had been trying for some time to get Turner to join the staff. . . . . By a fortunate set of circumstances he was free to leave about the time the directorship became vacant . . . . . My four years there convinced me that it was desirable to bring into the organization wherever possible more of the experience and viewpoint of men who have been engaged in the active work of the industry outside government service. . . . . It is only when the highest paid position is open that there is any hope of getting an outsider of experience and qualifications to join the staff. Even then, I am sorry to say, the salary does not cover the necessary expenses."

[37] Darrell H. Smith, *The Bureau of Education* (1923), p. 7. The successive commissioners of education and their tenure have been: Henry Barnard, 1867–1870, a leader in behalf of the legislation that created the bureau, who resigned because of lack of congressional support; John Eaton, 1870–1886; N. H. R. Dawson (a political appointee) 1886–1889; Dr. William T. Harris, 1889–1906, a practical, widely-respected school-man, who resigned because of age; Dr. Elmer Ellsworth Brown, 1906–1911, who resigned to become chancellor of New York University; Philander P. Claxton, 1911–1921; John J. Tigert, 1921–.

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mercial applications of psychology," rather than problems of pedagogy. His two immediate predecessors had been superintendents of schools, and as university teachers later they had dealt with education as such. These considerations, together with the relatively local reputation of the new commissioner, sharpened the criticisms which were provoked by the understanding that Philander P. Claxton's withdrawal from the bureau in 1921 was not voluntary.[38] The status of the office, and with it much of the prestige and effectiveness of the bureau, remain uncertain and unpredictable.

The Bureau of Navigation in the Department of Commerce—charged with essentially police functions in regard to vessels and seamen and facing problems that are legal rather than scientific—is likely by nature to invite impermanence at the top. There were four short-lived commissioners of navigation between 1884, when the central bureau was established, and the beginning of the long tenure of E. T. Chamberlain in 1893. Mr. Chamber-

[38] An editorial note in the *Journal of the National Education Association*, June, 1921, p. 108, probably expressed the consensus of opinion in educational circles, at least as regards this method of change, saying: "Out of a clear sky . . . . comes the announcement of the dismissal of Dr. Claxton as Commissioner of Education and the appointment of Mr. J. J. Tigert in his place. This action will be deplored by the friends of public education throughout the nation. It is not necessary to discuss the long and faithful service of Dr. Claxton, whose work has had the approval of two successive presidents of opposite political faith, nor is it necessary to review the little-known record and untried leadership of the man who has been named in his place . . . . ." As a matter of fact, clear though the sky may have seemed, political observers could have told educators that lightning was likely to strike somewhere in Kentucky. On March 22, 1921, the daily press remarked of President Harding: "It is understood he is awaiting recommendations from Kentucky for a number of offices." An educator then in touch with the Bureau furnishes the writer a summary of his impressions of the moving forces, as follows: "Kentucky had a candidate for the President's cabinet. For one reason or another (some alleged moral turpitude) he was not accepted. Kentucky then claimed a district prohibition agent, but unfortunately the post had been promised to a citizen of Ohio. The salary of the prohibition agent was $6,000 or thereabouts. Kentucky was then informed that it might have a $5,000 post, namely, the commissionership of education. But it was important that the new commissioner should be acceptable to the American Legion. Mr. Claxton had been a well known pacifist before the war. And while he had behaved himself during hostilities . . . . enthusiastic legionaries had protested against his incumbency before the Harding administration came in. Mr. Tigert . . . . was a member of the American Legion and highly acceptable to it."

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lain, furthermore, was appointed directly from private life; although he became a trained public servant, his experience after his graduation from college had been that of a political correspondent and newspaper editor. It remains to be seen whether his continuous service as commissioner for over twenty-seven years will be found to have had any permanent effect on the status of the office. A negative answer is indicated by the nature of the new appointment made in 1921, when Mr. Chamberlain (then sixty-five years of age) was shifted to special work in the Bureau of Foreign and Domestic Commerce. It is true that the new commissioner, David B. Carson, rose through thirty-five years of varied work with the Nashville, Chattanooga and St. Louis Railroad to the position of general manager (from which he retired to a farm in 1916), and that he had dealt with the railroad's river and transfer vessels. Other factors, however, influenced his appointment. A newspaper proprietor in Tennessee, meeting Mr. Carson on the street in 1921, asked him "why it was that the Republican party had overlooked one of its few members in Tennessee whose large business experience and capacity enabled him to fill well a position of any size." The Department of Commerce took thought where a retired railroad man's practical knowledge of river boats could be used.

The terms of commissioners of patents have been notoriously fleeting—two years or less in the cases of over half of the thirty-three incumbents since the Patent Office was established in 1836;[39] and this in the face of the fact that the position involves judicial functions that would ripen with experience. It is an unwritten law that the commissioner shall be a patent lawyer.

[39] Of the thirty-two commissioners of patents (not counting the present incumbent, but including one incumbent who served briefly twice at an interval of fourteen years), nine served one year or less, nine two years, six three years, and only three more than four years. The record of the first commissioner, Henry L. Ellsworth (1836–1845) has not been equalled; the longest tenure since has been six years. The instability has also affected the two assistant commissioners, who are presidential appointees. "During the ten year period from Aug. 15, 1913, to Aug. 15, 1923, 5 persons have held the office of Commissioner, 5 persons that of First Assistant Commissioner, and six persons that of Assistant Commissioner." G. A. Weber, *The Patent Office* (1924), pp. 21–2. The Patent Office was transferred to the Department of Commerce by executive order of March 17, 1925.

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The other desideratum is politics. Their combination was illustrated in the choice of the present head of the Patent Office in 1921. Thomas E. Robertson, the new commissioner, practiced patent law in the District of Columbia after 1904, residing meanwhile in Maryland and participating in Republican politics. The main impetus in his appointment emanated, apparently, from the Maryland contingent in Congress, for he was unanimously endorsed early in 1921 at a formal conference of the Maryland senators, congressmen, and national committeeman, although (said a memorandum from this group) "it was thought best by the majority of those present not to give the endorsements for positions outside Maryland to the press, as they might attract the attention of other states to these offices." In addition, there flowed to the White House the generally favorable but in some cases hostile comments of various practitioners of patent law and others immediately and commercially interested in its problems.

The post of commissioner general of immigration is the only bureau chiefship in the Department of Labor whose status is obviously political. Harry E. Hull, the present incumbent, was appointed in 1925, when William W. Husband, commissioner general since 1921, was advanced to the post of Second Assistant Secretary of Labor. Mr. Hull—educated in the common schools and at one time a grain buyer—had been an alderman for two years, mayor for ten, and postmaster for thirteen years in Williamsburg, Iowa, and a member of Congress from 1915 to 1925. This appointment seems to be a step backward. Mr. Hull's predecessor was long in contact with problems of immigration prior to his appointment as commissioner general, touching them from the legislative side as clerk of the Senate committee on immigration and as secretary of the Immigration Commission between 1902 and 1911, and from the administrative side as chief of the division of contract labor in the immigration service for two years, before he left after the outbreak of the World War to do Red Cross work in the care and return of prisoners. In general, the history of the position since its establishment in

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1891[40] reveals no tendency toward stability. The commissioner general from 1893 to 1897 was a "lame-duck" congressman from the committee that had framed the original legislation. Between 1897 and 1913 the office of commissioner general was treated as a perquisite of organized labor. Terrence V. Powderly, long master-workman of the Knights of Labor but a campaigner for McKinley in 1896, served from 1897 to 1902; F. P. Sargent, president of the Brotherhood of Locomotive Firemen, was commissioner general from that time until his death in 1908; and Daniel J. Keefe, head of the International Longshoremen, served from 1908 until the beginning of the Democratic régime in 1913. The choice of Anthony Caminetti—local prosecuting attorney, member of the California legislature, a congressman in the nineties, Democratic delegate and elector—was one of the least commended of President Wilson's major appointments. "The Commissioner General," wrote one who was the commissioner at Ellis Island from 1913 to 1919, "was as untrained in administrative work as I was in higher mathematics, and his consciousness of his inexperience led him to refuse to take any action at all . . . . he argued by pounding the table, swinging his arms, and evading the issue."[41]

Commissioners of the general land office always change with parties. Indeed, the tenure of the thirty-four individuals who have occupied the office since its establishment in 1812[42] has been

[40] The office of superintendent of immigration was created by the act of March 3, 1891, 26 U. S. Stat. L., 1084, but the title was changed to commissioner general and the term Bureau of Immigration was first used in an act of March 2, 1895, 28 U. S. Stat. L., 764,780.

[41] Frederick C. Howe, *The Confessions of a Reformer* (1925), p. 255. The writer knows of no more pointed commentary of the fatuousness of the idea that temporary, politically appointed bureau heads serve to "humanize" administration than the juxtaposition of the remark already quoted and Mr. Howe's strictures on the civil service which follow in his next paragraph: " . . . In a generation's time, largely through the civil service reform movement, America has created an official bureaucracy moved largely by fear, hating initiative, and organized as a solid block to protect itself and its petty, unimaginative, salary-hunting instincts. America has paid a heavy price for its permanent classified service. In Washington at least, it would be better if we had the spoils system, with all of its evils, in those offices that have it in their power to shape policies, to control executive action, and to make the state a bureaucratic thing."

[42] 2 U. S. Stat. L., 716.

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even shorter than the mutations of party control required. The considerations that govern appointments to this position combine partisanship with the sectional consciousness of economic interests in the public land states, which by a custom of our politics hold a sort of dower-right in the Department of the Interior. The present commissioner, William Spry—Republican and Mormon—is not alien to the tradition of the office. He was engaged for ten years in farming and ranching in Utah, developed banking connections, was an elective county and city official, member of the legislature, chairman of the state land board, United States marshal, and governor of Utah from 1909 to 1917.

Of the thirty-one commissioners of Indian affairs since the creation of the office in 1832,[43] only one (and he between 1839 and 1845) survived a change of party. Some of its occupants brought some prior administrative experience to the office, as did R. G. Valentine, commissioner from 1909 to 1913, who for a little while had been private secretary to the former commissioner and also a supervisor of Indian schools and assistant commissioner of the office of Indian affairs itself. Francis E. Leupp, 1905–1909, brought such a background as an active publicist and editor might have. The present commissioner, Charles H. Burke, took up his duties in 1921 with no more evidence of any previous administrative contact in a public way with Indian affairs than characterized his predecessor, Cato Sells, Democratic national committeeman for Texas at the time of his appointment in 1913. Mr. Burke, though lawyer-trained, was engaged in real estate and investment business; he had been a member of the South Dakota legislature and represented a district of that state in Congress almost continuously from 1889 until 1915. The logic of his appointment, of course, lay partly in the fact that he had been chairman of the House committee on Indian affairs.

Washington Gardner, twenty-sixth commissioner of pensions since the work was given the status of a permanent bureau in the Department of the Interior in 1849, resigned in 1925 at the age of eighty. He was appointed in 1921 by his friend, President

[43] 4 U. S. Stat. L., 564.

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Harding, from whose county in Ohio he came and with whose father he had served in the Civil War, and at the age of seventy-six he took up the unfamiliar tasks of a big, though routine, bureau. Mr. Gardner was presumably the last of a long line of commissioners whose common and apparently indispensable qualification lay in the fact that they were veterans of the Civil War.[44] The appointment of the present commissioner, Winfield Scott, indicates that an attempt is being made to perpetuate the spirit if not the letter of this theory of the office. He served as a private in the Spanish American War and the Philippine Insurrection; he studied law, practiced it betimes, and was elected county judge and later mayor of Enid, Oklahoma; he rose in the Oklahoma national guard through all grades to major, and, re-entering military service in the World War, was advanced from captain to colonel.

Several branches of the Treasury Department have the kind of functions which lend superficial plausibility to the argument that their heads should be politically responsible. The direction of these bureaus seems to require merely the so-called general executive ability which successful business or professional life is supposed to develop in readily transferable form. Their ramifications are interesting as patronage. Under existing circumstances, it is natural that their heads should be as changeable as the complexion of the cabinet. The office of the commissioner of internal revenue is administratively the most important of these bureaus. It embraces not only the great income tax unit but also the prohibition unit[45] and a number of essentially regulatory activities connected with taxation. From the time of the

[44] One of the commissioners since 1897 (not to go further back) had prior service in the Bureau of Pensions itself. James L. Davenport, head of the bureau from 1909 to 1913, had been clerk for sixteen years and first deputy commissioner for twelve years before his appointment. He was, of course, a Civil War veteran.

[45] The director of prohibition, James E. Jones, is not treated in this study, being regarded as a division head rather than a bureau chief. When appointed director in 1925, he had been assistant prohibition commissioner for over four years and previously had been with the Department of Agriculture for twenty-eight years. A bill (H.R. 10729) to establish a prohibition bureau was introduced in the 69th Congress, first session, and passed the House of Representatives on May 27, 1926.

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establishment of this virtual bureau in 1862,[46] there have been twenty-three commissioners, of whom twelve served two years or less and only three as long as seven years. None in recent years has been appointed from the personnel of the bureau itself, although several have had prior connections with other branches of the national government. David H. Blair, who has been commissioner since May, 1921, held no public office before his appointment at the age of fifty-three. A graduate of Haverford in 1891 and a school teacher in early manhood, for twenty-four years he had practiced law in Winston-Salem, North Carolina.[47] The position of director of customs was established by an act of 1923,[48] in lieu of the post of chief of the customs division which had been cared for in the annual appropriation acts but not specifically mentioned by statute. The act states that the director is to be chosen by the Secretary of the Treasury "pursuant to the civil service laws and regulations." E. W. Camp, however, had already been made chief in January, 1922, under an executive order that permitted his appointment without examination.[49] His selection was a phase of a so-called reorganization of the customs service that attended the consummation of the Republican tariff policy. Mr. Camp's acquaintance with the problem of customs had been gained by eleven years' service as

[46] 12 U. S. Stat. L., 432.

[47] There was a predilection, seemingly, in favor of a Southern Republican for the post. It was understood that C. Bascom Slemp, of Virginia, later the President's secretary, declined appointment. Mr. Blair's name was challenged by Senator Johnson, of California, who complained of Mr. Blair's action as a delegate in the 1920 convention and who also declared that, as the son-in-law of one of the richest men in the state, Mr. Blair was related to persons who naturally had many matters for adjustment in the income tax unit. The Senate committee on finance held a hearing behind closed doors in May, but recommended confirmation.

[48] 42 U. S. Stat. L., 1453, March 4, 1923. Even before the passage of this act, the customs division was distinguishable by reason of its duties and its field forces from other so-called divisions of the Treasury Department, such as loans and currency, paper custody, secret service, etc., which are not regarded as bureaus for the purposes of this paper. Their heads are, of course, classified employees. H.R. 10729 (passed by the House of Representatives on May 27, 1926) proposes to give statutory recognition to a customs bureau as such.

[49] Executive Order of January 25, 1922. *39th Report of the United States Civil Service Commission, 1921–1922*, p. 129.

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clerk to Representative Joseph Fordney, beginning in 1906 at the age of nineteen, and as clerk of the House committee on ways and means—of which Mr. Fordney had meanwhile become chairman—from 1919 to 1922.

The duties of the treasurer of the United States are much more routine in character. The roster of the twenty-five occupants of the office since 1775 contains a few early instances of protracted service, but terms since 1875 have been relatively short and conditioned by party success. It happens that both the present treasurer, Frank White, and his predecessor, John Burke, were previously governors of North Dakota, although of course, representing different parties. Neither had been in national administration before his appointment.

V

Generalization, or even summary, is difficult where subject-matter is so personal, situations so disparate, and the underlying needs of administration so baffling to precise analysis. The facts themselves—disjointedly presented and confessedly superficial—are left to teach what lessons they can. The individual canvass of the bureau chiefs now in office reveals a degree of stability and a prevalence of selection by formal or virtual promotion which are greater, to say the least, than is ordinarily assumed. Of the fifty-four bureaus examined in the body of the text, forty-two are at present under the direction of persons who were already in national administrative service at the time of their elevation to leadership or who were taken from some closely related state employment. If this is reason for gratification, there is all the more challenge—regardless of the personalities involved—in the persistently political status of the heads of bureaus as important as the General Land Office, Indian Affairs, Pensions, Navigation, Patents, Immigration, Internal Revenue, and the offices of the Comptroller of the Currency and the Treasurer of the United States.

The supposed distinction between scientific and non-scientific bureaus is outworn in its bearing on this whole problem. It undoubtedly served a useful purpose in hastening the liberation of

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certain branches of national administration.[50] It is a distinction, however, that is now likely to impede progress by the implication it seems to carry regarding the relation of partisan policy to the so-called non-scientific bureaus. The rôle of the politically responsible chief executive and his department heads in setting what can be termed tone in administration is generally recognized. There is no type of bureau, however, wherein all the changes of viewpoint, emphasis, and method—tone, in short—which are within the scope of propriety cannot be communicated through a permanent bureau chief, assuming, of course, that he has been soundly selected in the beginning and has not deteriorated personally.[51] For the purpose of legitimate changes, a well-trained staff and stable chief are likely in practice to be more effective than a blunt instrument in the form of a new, ill-adjusted man. If the changes that are desired cannot be formulated unmistakably, it is apt to mean either that the chief executive is

[50] The conditions which once surrounded even such services as the Coast and Geodetic Survey are suggested in the following sentences in a very human letter to the writer from a civil service employee who is now chief clerk in an important bureau. Referring to his appointment about 1890 to the then unclassified post of messenger in the Coast and Geodetic Survey, he says: "I remained there safely through the Cleveland administration—with one narrow escape. The change in the White House brought to Washington a horde of office seekers—and jobs were scarce. They finally got around to the Coast Survey. Secretary of the Treasury Carlisle placed a small political scout in the janitorship of the bureau. It was his business to get acquainted, spot the jobs beyond the pale of the Civil Service—and send the names of the incumbents to headquarters. No place was too unimportant to be overlooked. The heads of laborers and messengers went into the basket along with the heads of division chiefs. It looked like my days were numbered, but fortune intervened. The 'janitor' had a wife who was a newspaper writer. Her stories sold better when typed. She had no one to do her typing. I had learned typing. One day she asked me to type a story. I did so and made some corrections in the copy that pleased her. I became indispensable to her. Result, hubby kept hands off and I still had my job when McKinley came in. I may say that when the 'janitor' finished his clean-up job he was made a chief of division in the same bureau."

[51] Dr. Charles D. Walcott, head of the Smithsonian Institution and at one time director of the Geological Survey, speaking with forty-five years of observation in Washington behind him, makes the following comment apropos of some inquires from the writer: "The gradual degeneration of brilliant and well trained minds and bodies often brings about the most troublesome and trying situations. It cannot be explained to the one affected or his friends." This problem, however, is common to all types of bureau and has nothing to do with policy as such.

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too lacking in grasp to be able to analyze, prescribe, and explain, or that the changes desired are not matters on which he cares to be explicit. When they can be apprehended only intuitionally and then only by personal friends or fellow-partisans, they probably concern such matters as a discreet awareness of patronage, or tactful treatment of a favored interest, or the shaping of information or opinion given out in the name of the bureau. One of the most important practical motives for the partisan control of such officers as bureau chiefs is the desire to make sure that the right things are said about such sensitive points as the result of a tariff policy, a farm-relief program, the universality of prosperity, or the prospects of business depression. Is it not precisely here that there is the greatest need for detachment and for the type of recruitment and the conditions of tenure that encourage it?

The comments of a former secretary of agriculture are of interest in connection with the problem of the responsiveness of a stabilized system of bureau chiefs. After remarking on the fact that the positions of all but one of the chiefs in the Department of Agriculture are in the classified service, David F. Houston (Secretary of Agriculture during the Wilson administration and Secretary of the Treasury during the last year of that administration) thus answers the question whether he felt himself impeded by the status of his chief subordinates:[52] "I was not aware when I was in the Department of Agriculture that this status of bureau chiefs hampered me in whatever efforts I made to improve the administration of the Department and to get policies executed. On the contrary, I think the high character of the bureau chiefs, who are appointed for merit, made it easier to secure the adoption and execution of sound policies. . . . . My own judgment is that it would be desirable to place the personnel of all the departments in Washington in the classified service with very few exceptions.

[52] The quotation is from a personal letter to the writer on March 4, 1926. In his published account of his official experience, Mr. Houston testifies to the relief experienced by a new cabinet member whose department is characterized by stability of tenure. Referring to the discussion of patronage at the first meeting of the new cabinet in 1913, he writes: "I knew that I would not be bothered much with office-seekers because there are only four or five officers in the Department of Agriculture who are not in the classified service." *Eight Years with Wilson's Cabinet* (1926).

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For matters of political policy, it is sufficient that the heads of departments, the assistant secretaries, and very few other officers change."[53]

The facts give no support to the widely-held belief that the application of the principles of the merit system, selection by promotion, and permanency of tenure gives rise to a group of bureau chiefs who are older in years than those who are chosen from outside the government service. Age at the time of appointment to the post of chief and age at the present time are given for the bureau chiefs individually in an accompanying table (Table II, *infra*, pp. 808–111) and averages are struck in a subjoined note.[54] The figures as they there appear are unfavorable

[53] Another former department head—George B. Cortelyou, who at various times held the portfolios of Commerce and Labor, the Post Office, and the Treasury—does not go quite so far as Mr. Houston. Mr. Cortelyou writes: "It will generally be conceded that the head of an executive department is entitled to have as his principal assistants persons approved by him, selected without reference to the restrictions of the classified service, who are in full sympathy with his plans and those of the national administration and will carry them out wholeheartedly. Some bureau chiefs, by reason of the character of their responsibility and the nature of their duties, would come under this heading, while others would not. I do not know any fairer test than this, in determining whether a given position might properly be included in the classified service. And when applied with discretion, as it should be, it will be found to exempt a much smaller number of positions than is generally supposed . . . . ." Elsewhere in his letter, Mr. Cortelyou indicates that he regards the Comptroller of the Currency, the Treasurer of the United States, the Director of the Budget, and the Commissioner of Internal Revenue as belonging to the first group because of "their relation to the policies of the national administration."

[54] Average ages of present bureau chiefs, considered by groups:

Group	Number of bureaus in group	Age at which appointed chief	Present age
Appointed from inside national service	38	46	55
Appointed from outside national service	16	50	53
Appointed under civil service	25	46	54
Promotion	19	47	56
Rule II, sec. 10	4	45	50
Examination	2	43	44
Commissioned services	3	46	53
Unrestricted appointment but from inside national service	15	49	55

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enough to the notion that the unrestricted presidential system of appointment really imports fresh young blood. This lesson is emphasized when the bureaus are regrouped, and on the one hand the cases of appointment of officers who have had experience in closely related state work are counted with the instances of selection from within the national service, whereas on the other hand a few merely nominal cases of selection from within are put with the group of appointments from outside the government personnel. In point of age at the time of selection as chief, the two groups average, respectively, 45 and 53 years, and in point of present age, 54 and 57.

There is a further aspect of the factor of age and the related question of diminishing returns from long tenure. In the nature of things, the position of bureau chief is not the cambian layer of administration.[55] The creative tissue, where the bark is green and the thing really grows, lies a step nearer the details of the work, with the division heads and with what the Department of Agriculture calls project-leaders. The bureau chief is a coördinator of the energies of others. He stands between the transitory department heads and the necessarily shifting personnel below. He knows Washington. He understands public relations. He is acquainted with Congress. He is wary of politics. Personally, dining day after day at such places as the Cosmos Club, he is in touch with other bureau chiefs. Especially when he is aided by the strengthened morale that a wise policy of internal recruit-

Unrestricted appointment from outside national service	11	52	56
Departments			
Interior	7	50	56
Agriculture	19	45	54
Commerce	10	47	53
Labor	7	52	57
Treasury	11	49	54

[55] The phrase is taken from remarks by Dr. Stockberger, director of personnel and business administration in the Department of Agriculture, but originally a botanist.

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ment of bureau chiefs does much to encourage,[56] he can keep young in the plans of sympathetic subordinates.

Tenure and appointment are, of course, distinguishable if not separable problems. In connection with the latter, moreover, selection from within the service is not the only way (nor is it an infallible one) by which propaedeutic experience is assured.[57] Each case of appointment and removal must be judged upon its individual merits. In the present condition of public administration in the United States, however, doubts should be resolved in favor of the principles of stability and of promotion, to the extent that departures from them should incur frank suspicion and undergo unusually close scrutiny in connection with the unremitting vigilance with which all changes of bureau chiefs should be regarded.[58]

A type of examination is available which would require the principle of promotion to vindicate itself in each instance against an open field, and which in addition would allow the executive to explain his difficulties and needs with the utmost candor. It was first used less than a year ago in the selection of the head of the chemistry division of the Bureau of Standards. "Instead of the usual form of civil service examination," said the announce-

[56] At the time of his appointment as director of the Forest Service, W. B. Greeley wrote to the Secretary of Agriculture: "Your action in the selection of successors for Col. Graves and Mr. Potter from our own ranks has been of the greatest possible encouragement and stimulus to the whole organization. Its reactions are reaching me every day. You have not only recognized individual men, but you have recognized the work of the entire body and thereby given every member of it a great incentive to exert his best efforts."

[57] The evolution of our federal system is multiplying the phases of administration in which it is desirable that the national government should enlist officials with state experience and points of view. The success of indirect federal administration in Germany, for example, has been due in part to the custom of recruiting the officers of the central departments (so largely confined to the drafting and interpretation of laws) from the state services. Where possible, however, it is desirable that state officials should be imported at the level of division heads or below, rather than directly as chiefs of bureau. An example of good practice in this regard was the appointment in 1925 of Dr. Blanche M. Haines, director of the Michigan bureau of child hygiene, to be head of the division of maternity and child hygiene in the Children's Bureau, in charge of the coöperative act of 1921.

[58] In its department of American government and politics the REVIEW proposes to report currently on future changes in these offices. *Managing Editor.*

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ment, "the qualifications of candidates will be passed upon by a special board of examiners, composed of Dr. George K. Burgess, director of the Bureau of Standards; Dr. F. G. Cottrell, director of the fixed nitrogen research laboratory of the Department of Agriculture; Dr. W. A. Noyes, dean of chemistry of the University of Illinois; Dr. W. L. Whitney, chief of the research laboratory of the General Electric Company; and Mr. Frederick W. Brown, examiner of the United States Civil Service Commission. For the purpose of this examination, all of these men will be examiners of the Civil Service Commission. The examination will consist solely of a consideration of qualifications by this special board." This plan seems especially adapted to the appointment of chiefs of bureaus. In its essentials, it can be applied universally, without statutory change, to the bureau heads who are appointed by the President with the consent of the Senate. There is an opportunity here for a President and for department heads who are genuinely interested in administrative progress.

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TABLE I

TENURE OF BUREAU CHIEFS, 1857-1926

showing also changes in presidency, cabinet and party control

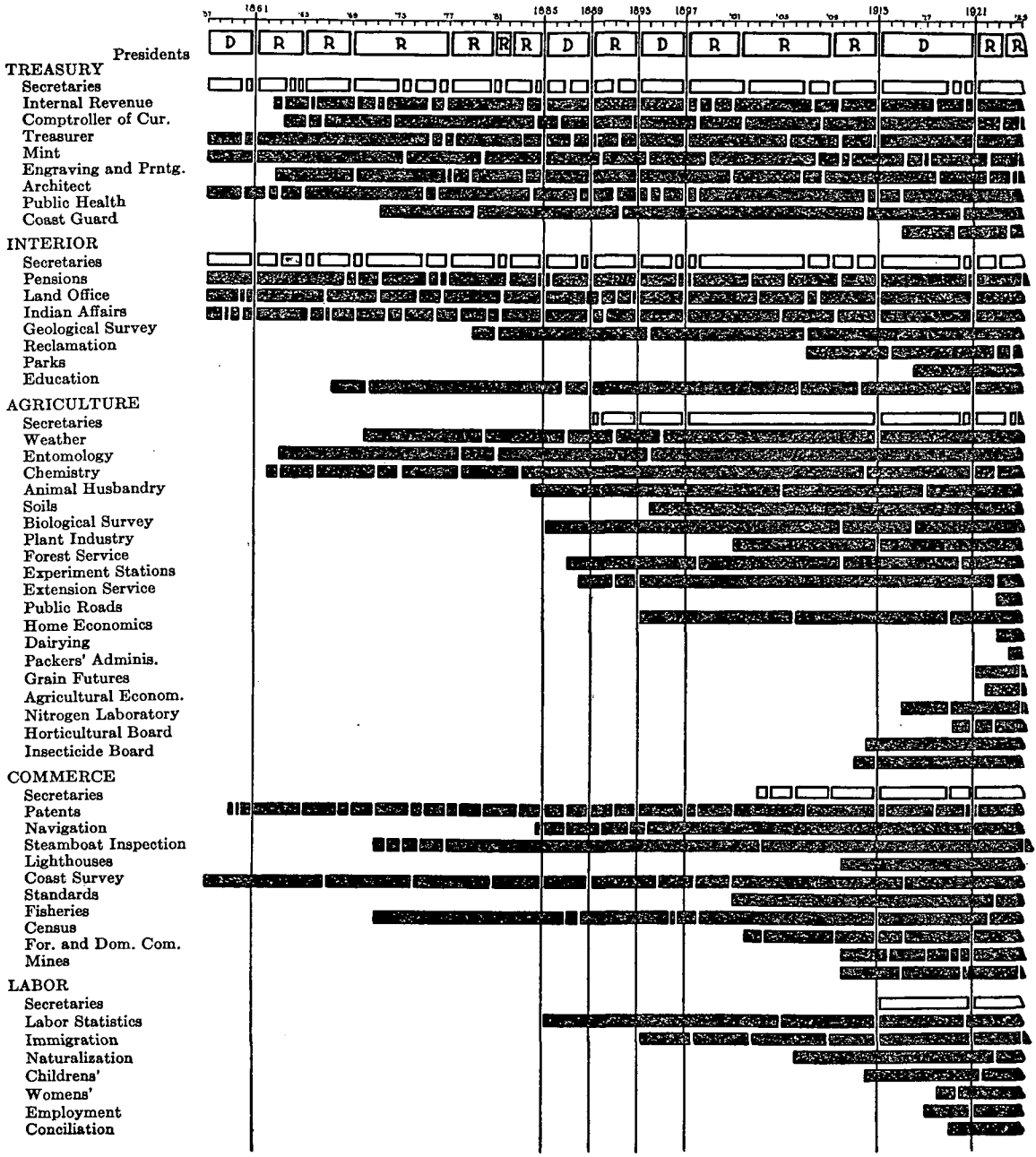

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TABLE II
APPOINTMENT AND TENURE OF PRESENT BUREAU CHIEFS

Classification,* and name of bureau	Name of present chief	Date of appointment as chief	Date of original entry into national service	Age at time of appointment as chief	Age at present time (1926)	Years of service as head of bureau	Salary in 1925
A. APPOINTED BY SECRETARY, UNDER MERIT SYSTEM							
1. Selected by promotion							
Agriculture							
Entomology	L. O. Howard	1894	1878	37	69	32	$ 6,500
Soils	M. Whitney	1894	1892	34	66	32	6,000
Plant Industry	W. A. Taylor	1913	1891	49	63	14	6,500
Biological Survey	E. W. Nelson	1916	1877	61	71	10	6,000
Animal Industry	J. R. Mohler	1917	1891	42	51	9	6,500
Forest Service	W. B. Greeley	1920	1904	41	47	6	6,500
Experiment Stations	E. W. Allen	1923	1890	59	62	3	5,400
Extension Service	C. W. Warburton	1923	1903	44	47	3	7,500
Dairying	C. W. Larson	1924	1917	43	45	2	6,000
Grain Futures	J. W. T. Duvel	1925	1902	51	52	1	6,000
Horticultural Board, Chr.	C. L. Marlatt	1912	1891	49	63	14	6,000
Insecticide Board, Chr.	J. K. Haywood	1913	1897	38	51	13	5,200
Nitrogen Research Lab.	F. G. Cottrell	1922	1911	45	49	4	6,000
Labor							
Naturalization	R. F. Crist	1923	1884	51	55	4	6,000
Treasury							
Engraving and Printing	A. W. Hall	1925	1918	36	38	2	6,500
Supervising Architect (acting)	J. A. Wetmore	1915	1885	52	63	11	5,200
Supply	D. C. Vaughan	1923	1893	50	53	3	4,600
Public Debt Service	W. S. Broughton	1919	1899	45	52	7	6,500

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2. Selected without competitive examination, with approval of Civil Service Commission, under Rule II, sec. 10.							
Agriculture							
Chemistry	C. A. Browne	1923	1906–7	53	56	3	6,500
Public Roads	T. H. MacDonald	1919	†	38	45	7	6,500
Home Economics	Louise Stanley	1923	†	40	43	3	6,000
Interior							
National Park Service	S. T. Mather	1917	1915	50	59	9	6,500
3. Selected by direct examination							
Agriculture							
Packers and Stockyards	J. T. Caine III	1925	†	43	44	1	6,000
Agricultural Economics	T. P. Cooper	1925–6	†	44	45	10 mo.	6,000
	L. S. Tenny (acting)	1926	1902–10 1921–	49	49	4 mo.	6,000
B. APPOINTED BY SECRETARY, BUT EXEMPT							
1. Position itself exempt							
Labor							
Conciliation Service	H. L. Kerwin	1919	1913	46	53	7	$ 5,600
Employment Service	F. T. Jones	1921	1918	56	61	5	5,200
Industrial Housing	R. Watson	1920	1906	34	40	6	5,000
2. Incumbent personally exempted							
Treasury							
Customs	E. W. Camp	1922	—	34	39	5	6,500

* The arrangement of bureaus in this table is not identical with that employed in the body of the article. The table is not intended to stand alone, being subject, at points too numerous to indicate, to qualifications expressed in the text.

† Attention is particularly called to the appointee's prior state service.

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TABLE II, continued

Classification, and name of bureau	Name of present chief	Date of appointment as chief	Date of original entry into national service	Age at time of appointment as chief	Age at present time (1926)	Years of service as head of bureau	Salary in 1925
C. APPOINTED BY PRESIDENT AND SENATE FROM COMMISSIONED CORPS							
Treasury							
Public Health Service	H. S. Cumming	1920	1894	50	56	6	7,500
Coast Guard	F. C. Billard	1924	1894	50	53	3	7,500
Commerce							
Coast and Geodetic Survey	E. L. Jones	1915	1913	39	50	11	6,478
D. APPOINTED BY THE PRESIDENT ALONE WITHOUT RESTRICTION							
Interior							
Reclamation Service**	E. Mead	1924	1892–3; 1897–'07	66	68	2	10,000
Commerce							
Lighthouse Service	G. R. Putnam	1910	1890	45	61	16	6,500
E. APPOINTED BY THE PRESIDENT WITH CONSENT OF SENATE							
1. Taken from within national administration							
Agriculture							
Weather	C. F. Marvin	1913	1884	54	67	13	6,500
Interior							
Geological Survey	G. O. Smith	1907	1896	36	55	19	6,500
Commerce							
Standards	G. K. Burgess	1923	1903	49	51	3	6,500

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Fisheries	H. O'Malley	1922	1897	46	50	4	6,500
Steamboat Inspection	D. N. Hoover	1926	1903	44	46	2	6,500
Census	W. M. Steuart	1921	1880	59	64	5	6,500
Foreign & Domestic Com.	J. Klein	1921	1917	35	40	5	6,500
Labor							
Labor Statistics	E. Stewart	1920	1887	63	69	6	6,000
Children's Bureau	Grace Abbott	1921	1917–9	42	47	5	6,000
Women's Bureau	Mary Anderson	1919	1918	47	54	7	5,400
Treasury							
Mint	R. J. Grant	1925	1921	60	63	3	5,600
Comptroller of Currency	J. W. McIntosh	1924	1920	50	52	2	12,000
2. Taken from outside national administration							
Commerce							
Mines	S. Turner	1925	—	45	46	1	6,000
Navigation	D. B. Carson	1921	—	64	69	5	6,500
Patents	T. E. Robertson	1921	—	50	55	5	6,500
Interior							
Education	J. J. Tigert	1921	—	39	44	5	6,500
General Land Office	William Spry	1921	—	57	62	5	6,500
Indian Affairs	C. H. Burke	1921	—	60	65	5	6,500
Pension Office	W. Scott	1925	—	46	47	1	6,000
Labor							
Immigration	H. E. Hull	1925	—	61	62	1	6,500
Treasury							
Internal Revenue	D. H. Blair	1921	—	53	58	5	10,000
Treasurer	F. White	1921	—	64	69	5	8,000

** Grouped in this table in accordance with act approved May 26, 1926. The position was previously in the classified service. The new salary is shown; the salary in 1925 was $7,500.

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ADVISORY COMMITTEES IN BRITISH ADMINISTRATION

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A comparatively recent development in British public administration has been the creation of advisory committees or consultative councils in connection with a number of government offices. It is probable that government officials have at times in the past held consultations with small groups of citizens without any formal organization or requirement. Temporary commissions and committees have also been set up from time to time including members of Parliament and private citizens. But the new tendency establishes such committees as a regular part of the machinery of public administration, and in some cases involves the official recognition and coöperation of professional and other voluntary organizations.

The Board of Education Act, 1899, authorized a consultative committee to represent universities and other bodies interested in education. This was first established by order in council of August 7, 1900, and somewhat modified in 1907. During the World War sittings of this committee were suspended. But a new committee was appointed by order in council on July 22, 1920, to consist of twenty-one members, the term of seven to expire every two years. Four of the members appointed were women.[1]

The Trade Boards Act, 1909, provided for district trade committees, to be organized, at first under regulations issued by the Board of Trade, and later (1916) by the Minister of Labour.[2]

The National Insurance Act, 1911, provided for insurance committees in every county and county borough;[3] and the

[1] Statutory Rules and Orders, 1920. No. 1582 (p. 522). There is a similar advisory council for the Scottish Education Department.

[2] 9 Ed. VII, c. 22; 6–7 Geo. V, c. 68; S. R. & O. 1910, p. 835; 1914, III, p. 303.

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Pilotage Act, 1913, authorized the Board of Trade to appoint an advisory committee of pilots, shipowners, representatives of pilotage and dock and harbor authorities, and others interested or having special knowledge.

The Police, Factories (Miscellaneous Provisions) Act, 1916, provided for an advisory committee to advise on regulations for street collections. This committee is appointed by the commissioner of police for the Metropolitan District and approved by the Home Secretary.[4]

Some advisory committees have also been established without statutory authority, such as a business-men's committee of the Post Office, and certain specialized committees, as the adult education committee at the Board of Education and the prison education committee at the Home Office.[5]

Among the hundreds of new agencies established during the World War were a large number of temporary advisory boards, committees, and councils, set up by administrative orders without express statutory authority. The following list of such advisory bodies is probably incomplete:[6]

Agriculture Ministry:
- Agricultural Consultative Committee, August, 1914
- Food Productive Advisory Committee, June, 1915
- Food Prices Committee, June, 1916
- Advisory Committee to the Food Productive Department, 1917

Board of Trade:
- War Risks Advisory Committee, August, 1914
- Advisory Committee on Commercial Intelligence, July, 1915
- War Trade Advisory Committee, September, 1915
- Advisory Board to the Coal Mines Department
- Committee for securing adequate supplies of Alcohol, December, 1916

[3] Continued by the revised National Insurance Act, 1924 (14–15 Geo. V, c. 38). This provides also for local medical and pharmaceutical committees to be consulted by the insurance and district committees.

[4] Statutory Rules and Orders, 1923, No. 1133 (p. 558).

[5] Laski, *A Grammar of Politics*, pp. 327, 375; Beveridge, *The Public Service in War and Peace.*

[6] Fairlie, *British War Administration.*

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Central Leather Supplies Advisory Committee, 1917
Building Trades Central Advisory Committee
Lubricating Oil Advisory Committee
Mineral Resources Advisory Committee
Advisory Wages Boards, 1917
Advisory Council to Department of Commerce and Industry

Food Ministry:
Consumers' Council
Food Control Committees, August, 1917
Port Feeding Stuffs Committee, 1917
Provincial Food Stuffs Committee, 1917
Butter Supplies Advisory Committee
Poultry Advisory Committee
Tea Advisory Committee
Rationing Consultative Committee

Home Office:
Aliens Restrictions Regulations Advisory Committee
Enemy Aliens (Internment and Repatriation) Advisory Committee
Committee on the Coal Mining Industry, February, 1915
Aliens Advisory Committee, May, 1915
War Charities Committee, April, 1916
Central Committee on Women's Employment
Women's War Employment Advisory (Industrial) Committee
Procurator General's Advisory Committee

Ireland:
Food Production in Ireland (Advisory) Committee
War Savings Committee
Womens' Employment Committee (Central)
Womens' Employment Committee (Ulster)

Local Government Board:
Relief of Distress Committee, August, 1915
Seven sub-committees

Labor Ministry:
Advisory Committees (7) on trades for discharged soldiers and sailors

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Munitions Ministry:
Munitions Advisory Committee
Munitions Financial Advisory Committee
Munitions Priority Advisory Committee
Health of Munitions Workers Committee, September, 1916
Committee on Women in Munitions Work, November, 1916
Metals for Munitions Committee, November, 1916
Committees on Copper and on Bleaching Materials, December, 1916
Agricultural Machinery Advisory Committee, January, 1917
National Service Department:
Central Advisory Committee
Labor Advisory Committee, 1917
Reconstruction Ministry:
Advisory Council
Disposal of War Stores Advisory Board
Housing (Advisory) Panel
Scotland:
Scottish Advisory Committee on Aliens, May, 1915
Scottish Food Production Committee, June, 1915
War Savings (Scotland) Committee, June, 1916
Treasury:
War Savings Committee, February, 1916
Advisory Committee (Customs and Excise), March, 1917
War Office:
Aeronautics Advisory Committee
Army Contracts Advisory Committee
Chaplain's (Army) Advisory Committee
Soldiers Liabilities Committee, May, 1916
Wool Purchases Central Advisory Committee, August, 1916.

The Machinery of Government Committee, of which Lord Haldane was chairman, called attention to such advisory committees and reported that: "So long as the advisory bodies are not permitted to impair the responsibility of ministers to Parliament, we think that the more they are regarded as an integral part of the normal organization of a department, the more will ministers be enabled to command the confidence of Parliament

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and the public in their administration of the services which seem likely in an increasing degree to affect the lives of large sections of the community."[7]

Since the war a considerable number of new advisory committees have been provided for by acts of Parliament.

The Ministry of Transport Act, 1919, provides for a rates advisory committee, a roads advisory committee, and a panel of persons from which other advisory committees might be appointed. The rates advisory committee consists of five persons: one, with experience in the law, appointed by the Lord Chancellor; two representatives of trading and agricultural interests, nominated by the Board of Trade after consultation with the Associated Chambers of Commerce, the Central Chamber of Agriculture, and other interests concerned; one representative of transportation interests, nominated by the Minister of Transport; and one representative of labor, nominated by the Minister of Labor after consultation with the parliamentary committee of the Trades Union Congress and other interests concerned; and, if deemed advisable, one additional member appointed from time to time. Proposed changes in rates, fares, etc., must be referred to this committee, for inquiry after notice.

The roads advisory committee consists of not less than eleven members, five representatives of highway authorities, appointed after consultation with such authorities; five representatives of users of horses and mechanical road traffic, appointed after consultation with the interests concerned; and one representative of labor, appointed after consultation with the interests concerned.

The panel for other advisory committees is to consist of experts and persons of wide commercial and trading experience, appointed from nominees, after consultation with the various undertakings and interests concerned, of the various classes of undertakings affected by the act, and of labor, trading interests, local authorities and such other interests as the Minister of Transport shall deem desirable. Questions relating to transport services (railways,

[7] *Report of the Machinery of Government Committee* (1918), p. 12.

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canals, and piers) are to be referred to committees from this panel.[8]

The Ministry of Health Act, 1919, authorized the formation of consultative councils; and four such councils were set up by order in council for medical and allied services, national health insurance (approved societies work), local health administration, and general health questions, each to consist of not more than twenty members having practical experience. A Welsh consultative council, of not more than thirty members, has also been established. The consultative council on national health insurance (approved societies work) has been enlarged to consist of not more than forty members.[9]

The Ministry of Agriculture and Fisheries Act, 1919, provides for a council of agriculture for England, a council of agriculture for Wales, an agricultural advisory committee for England and Wales, and county agricultural committees. Under the Seeds Act, 1920, the Minister of Agriculture, before making regulations, is to consult representatives of the interests concerned.[10]

Similar provisions for advisory and consultative committees are in the acts for the Scottish department of agriculture and the Scottish Board of Health.

Under the Police Act, 1919, the Secretary of State is authorized to make regulations as to the government, mutual aid, pay, allowances, provisions, clothing, expenses, and conditions of service of members of all police forces in England and Wales. Proposed regulations are to be submitted to a council consisting of the joint control committee, or a deputation from the joint control committee of the Police Federation (an organization of those in the local police forces, established by the act), and representatives from the chief officers of police and police authorities selected by the Secretary of State after consultation with the County Councils Association and the Association of Municipal Corporations, and before making such regulations the Secretary

[8] 9–10, Geo. V, c. 5, Nos. 21, 22, 23.

[9] 9–10, Geo. V, c. 20; Statutory Rules and Orders, 1919, Nos. 1281, 1282; 1923, No. 768; Newsholme, *The Ministry of Health*.

[10] 9–10, Geo. V, c. 91.

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of State shall consider any representations made by such council.[11]

Under the Electricity (Supply) Act, 1919, the Electricity Commissioners may appoint a committee or committees consisting of chairmen or other members of joint electricity authorities established under the act, of representatives of authorized undertakings or other specially qualified persons, for the purpose of giving the commissioners advice and assistance on such matters connected with the general improvement and development of the supply of electricity as may be referred to the committee by the commissioners; and the commissioners shall take into consideration any representations which have been made to them by any such committee.[12]

Advisory committees to the Board of Trade have been authorized by the Mining Industry Act, 1920, the Dyestuffs (Imports Regulation) Act, 1920, and the Safeguarding of Industries Act, 1921.

Under the Mining Industry Act, 1920,[13] the Board of Trade is required to appoint committees for advice and assistance in matters relating to the coal industry and to the metalliferous mining industry respectively; and may appoint one or more other committees for other matters; and in appointing members of any committee shall act after consultation with the various interests concerned. More specifically, the committee on the coal industry is to consist of a chairman and twenty-four others—four representatives of the owners of coal mines, four representatives of the workers, three representatives of employers in other industries, three representatives of workers in other industries, one mining engineer, two agents or managers or under-managers of coal mines, one coal exporter, one coal factor or coal merchant, one with experience of commerce other than the production and distribution of coal, one with experience in coöperative trading, and three with expert knowledge of medical or other science. Provision is also made for pit and district committees, area

[11] 9–10, Geo. V, c. 46; Police Regulations, 1924.
[12] 9–10, Geo. V, c. 100, § 4.
[13] 10–11, Geo. V, c. 50, §§ 4, 7.

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boards and a national board, composed of representatives of owners, managers, and workers.

The Dyestuffs (Imports Regulation) Act, 1920,[14] provides for an advisory committee to consider applications for licenses, to consist of five persons concerned in the trades in which goods of the class prohibited to be imported are used, three persons concerned in the manufacture of such goods, and three persons not directly concerned, one of the last group to be chairman. Provision is also made for a committee of persons employed in the trades of dye maker or dye user, to advise on the efficient and economical development of the industry.

Under the Safeguarding of Industries Act, 1921,[15] complaints of "dumping" are to be referred to a committee for inquiry, and on report of the committee the Board of Trade may apply an import duty of 33⅓ per cent, subject to approval by Parliament. Committees consist of five persons, selected by the President of the Board of Trade, from a permanent panel of persons appointed by him, mainly persons of commercial or industrial experience. Any person whose interests may be materially affected is not eligible as a member of a committee. Inquiries are to be public, except in hearing evidence of a confidential character.

The London Traffic Act, 1924,[16] provides in detail for an advisory committee to the Minister of Transport, to consist of a chairman, elected by the committee, one member appointed by the Secretary of State, two by the London County Council, two be the councils of the metropolitan boroughs, and one each by the corporation of the City of London, the county councils (in the London traffic area) north of the Thames, the county councils (in the same area) south of the Thames, the county boroughs in the London traffic area, a representative of the metropolitan police district, appointed by the Secretary of State, a representative of the City police, appointed by the corporation of the City of London, and one appointed by the Minister of Transport. Provision is also made for seven additional members, three to be

[14] 10–11, Geo. V, c. 77, § 2.
[15] 11–12, Geo. V, c. § 2.
[16] 14–15, Geo. V, c. 34.

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representatives of labor to be appointed by the Minister of Labor, and four representatives of persons furnishing transport or using vehicles, to be appointed by the Minister of Transport after consultation, to act when considering traffic regulations.

The Agricultural Wages (Regulation) Act, 1924, provides for an agricultural wages board and district agricultural wages committees. These are to consist of members representing employers and workers in equal proportions, with a few additional members appointed by the Minister of Agriculture. Under regulations of the minister, the representatives of employers are nominated by the Council of the National Farmers Union, and the representatives of workers by the executive committee of the National Union of Agricultural Workers and the general executive committee of the Workers' Union.[17]

Under the Acquisition of Land (Assessment of Compensation) Act, 1919, provision was made for reference committees for England and Wales, for Scotland, and for Ireland, which were to make rules for the appointment of official arbitrators and to appoint arbitrators. The committee for England and Wales consists of the Lord Chief Justice, the Master of the Rolls, and the President of the Surveyors Institution. Under the Law of Property Act, 1925, this committee may also make rules as to applications for discharge and modifications of restrictive covenants on lands, and (subject to Treasury approval) to prescribe fees.[18]

Under the Therapeutic Substances Act, 1925, for the regulation of the sale of vaccines, toxins, antitoxins, salvarsan, insulin, and pituitary injections, there is provision for an advisory committee to be consulted as to regulations determining standards and licenses to be issued by a joint committee consisting of the Minister of Health, the Secretary for Scotland, and the Minister of Interior of Northern Ireland. The advisory committee is to consist of three members appointed, one each by the Minister of Health, the Scottish Board of Health, and the Minister of Interior for Northern Ireland, and five members, appointed one

[17] 14–15, Geo. V, c. 37; Statutory Rules and Orders, 1924.

[18] 9–10, Geo. V, c. 57; 15 Geo. V, c. 20.

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each by the Medical Research Council, the General Medical Council, the British Medical Association, the Council of the Pharmaceutical Society, and the Council of the Institute of Chemistry.[19]

Detailed information as to the operation of such advisory committees is not available; but the multiplication of such bodies in recent years is an indication that they have been found useful. As already noted, they were endorsed by the Machinery of Government Committee in 1918. Sir Andrew Ogilvie has said that the local advisory committees of business men on public telephones "did most excellent work in the provinces." Sir William Salter writes that "committees are an invaluable instrument for breaking administrative measures on the back of the public."[20] H. J. Laski states that "of the value of advisory bodies, there is now no room for doubt."[21]

Mr. Laski, in his *Grammar of Politics* has also set forth his views on the structure and functions of such committees. The committees, he believes, should be small, generally not more than twenty; and should be specialized rather than covering the whole field of a department. They should have a majority chosen by representative associations of different interests affected, and a minority chosen by the minister to represent the public and special interests sufficiently though indirectly concerned.

As to their functions, they should be consulted on proposed bills, on general administrative policy, and on regulations and orders, with power to make suggestions; and regulations and orders to which objection is made should not be issued without specific approval of the legislative body. But while they are to advise about administration, they are not to direct or control it; they are not to prepare policy; they cannot commit outside bodies; they should never have access to information about proposed purchases, nor in general be consulted about negotiations with foreign powers; and they should be confidential,

[19] 15–16, Geo. V, c. 60.
[20] Salter, *The Development of the Civil Service*, 108, 220.
[21] *A Grammar of Politics*, p. 376.

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though decisions should be published if both minister and the committee think it desirable.[22]

The safeguarding of industries committees have been criticized by Liberals as instrumentalities for establishing protective duties, "after farcical inquiries," by the present Conservative government.[23] This may be compared to the recent criticism of the Tariff Commission in the United States.

[22] *A Grammar of Politics*, pp. 377–383.
[23] *Contemporary Review*, vol. 130, p. 3 (July, 1926).

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LEGISLATIVE NOTES AND REVIEWS

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The Legislative Reference Bureau in Recent Years. The legislative reference bureau has come to be so much an accepted part of governmental machinery that it is no longer the object of praise and attack that it was a few years ago. Like so many other structural reforms in government that were at first hailed as harbingers of the millenium or condemned as destructive or subversive factors, depending on the viewpoint of the commentator, the legislative reference bureau has realized neither the extravagant claims of its advocates nor the dire prophecies of its detractors.

It is worthy of note, however, that there are very few instances where states, having once committed themselves to a whole-hearted experiment in legislative reference work, have abolished their bureaus. There are numerous cases, of course, where the legislature has skimped the bureau on funds and thus curtailed its work, but this is almost the normal experience of many governmental institutions of proved worth. At the present time, almost everybody in any way connected with or conversant with the work of the state government will admit that a legislative reference bureau meets a real need and performs a valuable service. This does not mean, of course, that there is complete agreement as to the exact functions which the bureau shall perform, or as to the way in which it shall carry on its work. There remains a considerable difference of opinion on these matters.

At the present time, probably three-fourths of the states make provision for legislative reference work in some form or other, while it is likely that in the remaining states such functions are performed in such fashion as existing institutions find possible in the absence of *ad hoc* appropriations and facilities. Numerically there has been practically no expansion in the field of legislative reference work in the past ten years.[1] A few additional functions have, however, been put to test in existing bureaus, and several states have experimented with various

[1] The writer has received information indirectly to the effect that Louisiana is at present installing, or is about to install, a legislative reference service, but direct inquiry has failed to elicit any response from the State Library at Baton Rouge.

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forms of administration and control. There have been, too, several noteworthy upheavals threatening the continued existence of bureaus. Such matters as these, indeed, comprise the only developments of note in legislative reference work during the past ten years.

Speaking broadly, it may be said that the general scope and nature of legislative reference work became pretty well fixed by 1916, and there have therefore not been any wide departures or notable extensions in the work during the intervening period. Some additions to the tasks allotted to the bureaus, however, and some variations in the accepted methods of carrying on recognized functions may be worth noting. To the customary function of keeping a card catalogue of bills introduced in the legislature and a record of their status to date, the Connecticut library adds an interesting variation in its practice of making photostat copies of all bills introduced.[2] The reason for this particular practice is the rule of the legislature that no bill shall be printed until it is favorably reported by a committee. A number of bureaus, for instance that of Illinois, have undertaken the task of preparing a periodical bulletin (the Illinois statement appears on the desk of the legislators every week) giving a brief of every bill introduced, together with a statement as to its progress and disposal up to the time of printing.[3] The Virginia bureau goes a bit further in that it prepares, after the legislative session has ended, a lengthy commentary on the legislation passed during the session and its relation to the pre-existing statute law of the state. The pamphlet issued in 1921 covered over one hundred pages. It represents work undertaken, over and above the functions assigned by law, in a gratuitous attempt to extend the usefulness of the service.[4]

One activity which, it would seem, might normally go with the work of a legislative reference bureau is that of codification and consolidation of the statute laws. Of course, very few states are committed to a policy of codification. Nevertheless every state ought to make some provision for a periodic consolidation of its laws, in order that its statutes may not be in such a state of confusion as to be incomprehensible. Thus far only very few states have put such a function on their bureaus. The Pennsylvania bureau is a notable exception, it being specifically directed by a statute of 1923[5] to undertake such work of that nature as the

[2] Report of the State Librarian of Connecticut, 1920, p. 23.

[3] See, for instance, Illinois Legislative Reference Bureau, *Final Synopsis and Digest*, No. 22, 1923.

[4] National Association of State Librarians, *Proceedings*, 1922, p. 22.

[5] Pennsylvania Laws, 1923, ch. 119, sec. 7.

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legislature may designate. The bureau has already issued several codes, the work being carried on in the interim between sessions of the legislature. Under a recent (1925) Indiana statute, the director of the bureau is made ex officio revisor of statutes, and is a "member of every commission which may be appointed by the governor or by virtue of any law to codify or revise any statute." But such work, to be carried on between sessions, is not to be undertaken except upon express authorization of the governor or the legislature.[6] It is interesting to note that Wisconsin, which has made perhaps the most intensive use of its bureau of any state in the Union, provides a separate official, known as the revisor of statutes, not connected with the bureau, for the work of consolidating the statutes and bringing them up to date. Wisconsin is the only state in the Union, incidentally, that adheres to the practice of issuing a complete codification of its laws after every session of the legislature.[7]

Massachusetts has of late undertaken one of the most unique and interesting experiments along this line. For the past five years the state has maintained a system of continuous consolidation whereby, although no definite codification such as that of Wisconsin is made, the laws are kept up to date and classified in such a way that one can easily find the whole body of law upon a given subject. The work is carried on under statute of 1920,[8] which provided for permanent counsel to the House and Senate who should "annually prepare a table of changes in the general statutes, an index to the acts and resolves, and shall from time to time . . . consolidate and incorporate in the General Laws all new general statutes . . . shall so far as possible draft all bills proposed for legislation as general statutes in the form of amendments of or corrections in the General Laws . . . . may from time to time submit to the General Court such proposed changes or corrections in the General Statutes as they deem necessary or advisable. . . . " In connection with this scheme a loose-leaf method of binding the laws is used, so that new legislation can immediately be inserted in its proper place, and its relation to the pre-existing laws on the same subject becomes immediately evident.

During the past several years the bureaus have in various instances played important parts in connection with constitutional conventions.

[6] Indiana Laws, 1925, ch. 58, sec. 17, p. 195.

[7] E. E. Witte, "Governmental Agencies for the Improvement of Statute Law in Wisconsin," *Kappa Beta Pi Quarterly*, VIII, 55.

[8] Massachusetts Laws, 1920, ch. 640.

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In some cases, for instance the Illinois constitutional convention of 1919–20, the bureau was specifically directed by law to compile data of interest to the members of the convention, and a special appropriation was made to cover the work.[9] A series of voluminous publications bearing on the diverse problems of state government, prepared by various authorities under the direction of the legislative reference bureau, was subsequently issued. The Pennsylvania bureau gathered a considerable amount of material in connection with the constitutional revision convention of 1921; while the New York and Nebraska bureaus also have aided conventions in their respective states. In some instances much valuable work of this sort has been done by bureaus without any specific direction from the legislature, and without any additional funds.

Perhaps the most lengthy and detailed list of duties assigned to any bureau is found in the Indiana law of 1925,[10] which reorganizes the reference agency and incidentally renames it the "legislative bureau." In addition to the stock functions of reference library work and bill-drafting, the Indiana bureau is directed to compile statistical information of all sorts, and to edit the State Year Book; the director is ex officio revisor of statutes; the bureau is made the repository of all bills, resolutions, and documents introduced in the legislature, is assigned the task of printing and editing the House and Senate journals, and is directed to assist the secretary of state in preparing and indexing the acts passed by the Assembly.

There has been more experimentation in matters pertaining to control and administration of legislative reference bureaus than in the functions entrusted to them. The reason for such instability will be considered after several of the changes have been briefly set forth. Bureaus normally are placed under the appointing power of the governor, or of the legislature, or of some supposedly non-partisan body such as a library board; and in most cases there is no change from the type of control first chosen. A few states, however, have made such changes. The Pennsylvania bureau, for instance, which was formerly under the appointive power of the governor, was, in 1923, transferred to the direct control of the legislature.[11] Reference work in Michigan was recently taken out of the hands of the State Library and placed under the direct supervision of the legislature.[12] In 1919 Oregon, where informal reference work had

[9] Illinois Laws, 1919, p. 63, sec. 1.
[10] Indiana Laws, 1925, ch. 58.
[11] Pennsylvania Laws, 1923, ch. 119.
[12] Michigan Laws, 1921, ch. 71.

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been carried on partly by the state library and partly by the attorney-general's office, directed the governor to appoint a bureau, but at the same time specified that the persons appointed should be the heads of certain designated departments in the state university.[13] This penny-pinching policy has not gained the state anything, for until very recently this ex officio board has done practically nothing. Meanwhile reference work has been carried on as before. More serious results attended an administrative change effected a few years ago in North Dakota. That state, very early, had a flourishing legislative reference service in connection with its state library, but in 1919 the legislature, apparently bent on economy, combined in the person of one man the offices of legislative reference librarian, state law librarian, and supreme court reporter, and placed the appointment of this individual in the hands of the judges of the Supreme Court.[14] It is, of course, due to the top-heavy accumulation of duties and not to the unique appointing authority that the reference work in that state has subsequently dwindled almost to the vanishing point. The Legislative Counsel Bureau in California was formerly under the control of a board composed of the governor or someone acting for him, two men elected from the Senate for a four-year term, and two from the House for a two-year term, the two pairs to be split politically.[15] In 1917 this scheme was abandoned and the power of appointment was lodged in the hands of the governor.[16]

In several instances these surface changes are an indication of deep-seated difficulties which, although not much is said about them, are perhaps to date the most stubborn obstacle to the successful carrying out of legislative reference functions. Some bureaus have been accused of political bias; others have been charged with trying to influence legislation. But almost everywhere the bureau finds it difficult to avoid being embroiled, sometimes openly, in contests between governor and legislature; hence the importance of this matter of control. Despite the tendency of political parties to bridge the gap between legislative and executive, the antiquated theory of checks and balances continues to work only too successfully. Only comparatively rarely does a governor manage to keep on good terms with his legislature, even though both are of the same party; while frequently an open feud exists between them.

[13] Oregon Laws, 1919, ch. 167, sec. 2.
[14] North Dakota Laws, 1919, ch. 211, sec. 1.
[15] California Laws, 1913, ch. 322, sec. 1.
[16] California Laws, 1917, ch. 727, sec. 1.

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If, under such circumstances as these, the legislative reference bureau is controlled by the legislature, it is distrusted by the governor; whereas if it is in the power of the governor, that section of the legislature which is opposed to the governor will be suspicious of the bureau and will refuse to make use of it. Sometimes a bureau is able to show a remarkable record of activity so far as the number of bills drafted is concerned, while the actual effect of its work on the statute law of the state is slight, the reason being that the administration bills are not entrusted to it at all. Where such conditions exist the respective parties to the dispute will find other agencies to draft their bills, such, for instance, as the attorney-general's office, or highly skilled private individuals. It may be objected that bill-drafting is a purely technical function in which personal bias cannot play a part. But the ease and innocence with which a joker can be slipped into an important bill has been demonstrated too often, and sponsors of bills do not care to take chances. Perhaps this difficulty can be obviated in part by placing the work of the bureau under the control of some non-partisan board, but even here the control, indirect and remote though it may be, will rest predominantly with the governor or with the legislature. No remedy for such a state of affairs has thus far been suggested except the provision of separate facilities for bill-drafting. The conditions seem to be inherent in our type of government, and therefore ineradicable as long as the type remains unchanged.

In three or four states legislative reference work has been completely discontinued, but no such calamity has befallen any state which had a thoroughly established and efficiently functioning bureau. In West Virginia for a few years the Department of Archives and History carried on some legislative reference work at the request of the governor, but funds and facilities were so limited that after a short trial the attempt was discontinued. The unsuccessful attempts of Oregon and North Dakota to save money by making legislative reference work an ex officio function of some other state officer or institution have already been touched on. New Jersey in 1914 created the office of legislative adviser and bill examiner, carrying a salary of $1,500. A man was appointed, and acted during the session of 1915, but in 1916 the legislature failed to make any appropriation for his salary and in the following year the office was abolished. The members of the legislature apparently preferred the former method of consulting the attorney-general's office

[17] Elliott Flower, in *Harper's Weekly*, LX, 417.

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on their bills. In any event the appropriation was scarcely large enough to afford a very high-class type of service.

Sometimes, for one cause or another, the bureau has incurred the enmity of either the governor or the legislature, and as a consequence has had to fight for its very existence. When Governor Philipp took office in Wisconsin in 1915 he did so with the avowed intention of getting rid of Dr. McCarthy and the legislative reference bureau. He charged that the bureau had interfered in legislation, had increased the number of bills, had impaired the efficiency of the average legislator, and had caused unwarranted expense to the state, and he therefore had a bill introduced to abolish the institution. The legislature, however, did not agree with the governor, and the bill did not go through. As time went on, Governor Philipp became sufficiently reconciled to the bureau to use its facilities for drafting bills.[17]

Trouble developed for the Indiana bureau during the 1917 session. A certain bi-partisan section of the legislature whose political interests had been affected adversely decided to put the bureau out of business. An attempt to curtail its activity by placing it under the State Library with a nominal appropriation failed, but the desired end was achieved by political trickery. A rider abolishing the bureau was attached to an important bill late in the session, and in the rush and confusion attending the closing hours the bill went through.[18] The governor signed it rather than veto an important bill, but he continued the organization of the bureau partly on appropriations which had been made for it earlier in the session, and partly on his own contingent funds. One of the first acts of the new legislature was to reëstablish the bureau.

Sometimes, because of the influential backing that a bureau has attracted, or for other reasons, legislative enmity will not take the form of open opposition, but will rather manifest itself in an attempt to cut appropriations or to take away functions. In 1917 the Texas legislature, largely because of a personal feud with the man then in charge of legislative reference work, withdrew all supplementary appropriations for reference work, and continued the salary only on condition that the incumbent be discharged and a new man employed. The additional appropriation was not again made available until 1921. The reference service of the Library of Congress was likewise subjected to this form of pressure. Its appropriation for 1919–20 was $45,000, and instead of receiving the total of $69,000 which it asked for the following year, it

[18] *Special Libraries*, VIII, 72; *Journal of the American Bar Association*, III, 465.

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was suddenly cut down to $25,000.[19] The personnel of the service was reduced forty per cent as a result. The alleged reason was disapproval of some of the work carried on by the section, but there were doubtless other contributing factors. The appropriations began to increase again, but not until 1924 did they reach their former figure.

Probably the most recent attempt of this nature was that of Governor Bryan in connection with the Nebraska bureau in 1924. In a budget message he declared that the department had become virtually a part of the state university, and that its main function was sending out documents and information on request; he therefore recommended the abolition of the bureau and the merging of its work with that of the Library Extension Bureau.[20] Consequently no provision for the bureau was made in his budget. The legislature, however, had different ideas on the subject, and proceeded to vote the bureau the largest appropriation in its history.

With the lapse of time and the accumulation of experience, the legislative reference bureau has come to fill a recognized place in state government, with fairly definite and circumscribed functions. Presumably its first period of growth and expansion is over. It has not brought about any revolutionary change in the quality of state government, but it was not to be expected that it would do so. On the other hand, many students of government and legislation agree that in such states as Wisconsin and Indiana, where bureaus have been especially active and efficient, there has been a marked improvement in the quality and arrangement of the statute law.

In general, the tendency has been rather toward a narrowing than an extension of function. Whenever the bureau has gone beyond the strict bounds of its work, and has attempted, however laudably from the standpoint of reformers and students of government, to aid in bringing about certain reforms, trouble has resulted. Too often in such circumstances the bureau has come to be looked upon as the tool of a certain faction in the government, and the ultimate result of its well-intentioned efforts has been a curtailment of its usefulness. Apparently the moral is that the bureau should stick strictly to its knitting, and not allow its personal convictions to play the slightest part in the carrying out of its functions. In other words, its function is purely ministerial,

[19] Report of the Librarian of Congress, 1920, p. 102; also House Document No. 968, 65th Congress, 2nd Session.

[20] Charles W. Bryan, Supplementary Budget Message, Nebraska, January 18, 1923, p. 14.

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not discretionary. Such an attitude has been carefully fostered and built up over a long period of years in the office of the British Parliamentary Counsel to the Treasury, and it would seem that we are approximating it in the United States.

Of all the elaborate plans for expanding legislative reference service which have been enthusiastically set forth from time to time, practically none has been brought to fruition. Senator Owen's scheme[21] for building up a very extensive legislative reference service for the national government, to be connected with a graduate school of government and legislation, seems to be farther from fulfillment than when it was first broached. Nor does it seem likely that any state will in the near future attempt the plan suggested by John A. Lapp[22]—a variation upon that first set forth by John Stuart Mill in his *Representative Government*—namely, the entire withdrawal of the law-drafting function from the legislature, leaving that body only the alternative of accepting or rejecting bills drawn by a commission of experts. Even the much less drastic proposal of submitting all bills to the legislative reference bureau for technical revision and suggestion has been accepted only in very few American states, notably Connecticut and Vermont.

The inception and early development of the legislative reference bureau belong to the first decade of the twentieth century—a time of progressivism and hopeful experimentation in matters governmental. At present we are going through a period of disillusionment and conservatism, and proposed experiments are viewed with disfavor. Probably in a few years, when the wheel has turned full circle, we will have another era of experimentation, and we may then have an opportunity to test these larger plans. Meanwhile, the legislative reference bureau is carrying out its routine work of library reference and bill-drafting, and there are few who advocate its discontinuance.[23]

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[21] S. 8335, 62nd Congress, 1st Session; see Senate Report No. 1271, pp. 9–10, 62nd Congress, 3rd Session.

[22] John A. Lapp, in *Annals of the American Academy*, LXIV, 181.

[23] Since this article was written a change of considerable importance has been reported from Rhode Island. A law passed this year (Rhode Island Laws, 1926, ch. 790) provides for the appointment of a state law revision commissioner by the governor and the senate, to hold office for a term of four years. His main functions are to consolidate and arrange in code form the statute laws of the state; to append thereto notes and supreme court decisions bearing on the laws; to prepare, draft,

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Progress in Virginia Toward Simplification and Economy in Government. The General Assembly of Virginia, at its session of 1926, established a record for constructive legislation unequalled by that of any of its predecessors in recent decades. This result is attributable in part to the social, industrial, and political awakening that is now manifesting itself in all parts of the state. It is attributable in still larger measure to the able and effective leadership of the recently elected governor, Harry F. Byrd. The outstanding feature of this legislation was the adoption of an imposing array of some twenty-five or thirty measures, designed to prepare the way for complete administrative reorganization and to promote efficiency and economy in state and local government.

The subject was not new in Virginia. There had been a fairly well-defined movement for administrative reform in the state, beginning as early as 1908. This movement resulted in the appointment, from time to time, of a number of commissions or committees to investigate special phases of state and local government, such as taxation, the fee system, education, and budgetary reform; and it culminated in 1922 in the creation of a commission on simplification and economy of state and local government, invested with broad powers and directed to study and report to the 1924 session of the General Assembly a plan for such reorganization and simplification as might be deemed needful "in all the component parts of the government, state and local."

The report of the commission on simplification and economy reviewed, to some extent, the findings of previous commissions and presented a comprehensive program for administrative reorganization based upon a study of state and local conditions. The report appeared too late for full consideration at the legislative session of 1924, but it met with an immediate response on the part of the press and the people of the state. Simplification and economy became an issue in the campaign of 1925,

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and redraft bills on the written request of the governor, the speaker of the house of representatives, the presiding officer of the senate, or chairmen of the standing legislative committees. His work is to be clerical only, and he will exercise no influence on the subject matter of legislation. Such work of this nature as has been done heretofore has been the function of the legislative reference division of the State Library, and it is therefore to be expected that the new commissioner and the Library will work in close coöperation. The outsider may well wonder whether any one man will be able successfully to discharge such an array of functions. A fairly liberal salary ($6,000 per annum) is provided, but the allowance for office assistance and expenses is only $1,800. The idea was probably taken from the Massachusetts experiment mentioned above.

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and both candidates for the governorship committed themselves to programs of administrative reform.

Any doubt that may have existed as to the policy and procedure of the governor-elect was quickly dispelled when he assumed office on February 1, 1926. His first official act was to establish a uniform eight-hour day for all state employees engaged at the seat of government. This was followed, on February 3, by a notable message to the General Assembly on the subject of simplification of government in Virginia.

Pointing out in this message that nearly one hundred boards, departments, and officers were struggling to function in the management of the affairs of Virginia and emphasizing the powerlessness of the chief executive, under present conditions, to exert an appreciable influence in the conduct of state government, the governor contrasted these conditions with the administrative organization required by the great private corporations, and urged specifically: (1) amendment of the state constitution to prepare the way for the short ballot, the elective officers to be limited to the governor, the lieutenant-governor, and the attorney-general; (2) the appointment of all administrative heads by the governor, who should be made responsible for administrative efficiency; (3) the abolishment of many bureaus, boards, and departments, and the grouping of the rest into eight or ten departments; (4) an efficiency survey, to be made by an outside agency, free of personal and politicial considerations. These recommendations were accompanied by a number of less sweeping proposals designed to strengthen the lines of administrative authority in the conduct of state affairs.

With respect to local government the message, while disclaiming any intention of infringing upon local prerogative, contained a number of far-reaching recommendations. These referred mainly to administrative details and included such subjects as the preparation and publication of local budgets; public hearings as a condition precedent to increases in tax levies; bond issues only upon direct vote of the qualified voters of the locality; restriction of the power to borrow money or to create deficits; a uniform fiscal year, fixed by state law; and regular audits by the state accountant of all local receipts and expenditures.

Naturally the legislative program was set in this constructive framework. Indeed it is said that no specific measure recommended by the governor failed of passage in the General Assembly. Most of the bills were enacted without opposition. Outstanding among these measures was an item in the general appropriation act, carrying a grant of $25,000 for an expert survey of the state government with a view to consolidation

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and simplification of functions, and for such study of the organization and functions of local government as the governor might direct. Accompanying this was an act providing for the appointment by the governor of a commission of seven members to study the state constitution and to propose to the 1928 session of the General Assembly such amendments and revision as may seem to the best interests of the commonwealth. This sensible plan, apparently no less democratic than procedure through the customary constitutional convention, may have an important bearing upon methods of revising state constitutions in the future.

In addition, appropriate resolutions were passed proposing amendments to the state constitution by which the secretary of the commonwealth, the state treasurer, the superintendent of public instruction, and the commissioner of agriculture and immigration, instead of being elected as heretofore, should be appointed by the governor for terms coincident with that of the governor making the appointment.

Other measures provided for the abolishment of assessors of land, 439 in number, and the imposition of their duties upon the local commissioners of the revenue; for the reorganization of the state tax commission and the appointment of a full-time state tax commissioner; and for the abolishment of several state offices and bureaus and the combination of others with their proper general departments. A "state port authority" was created to coördinate, regulate, and improve the navigable waters of the state; and the functions of several existing conservation agencies were consolidated under a state commission of conservation and development. To this commission is entrusted the development of the water power, geological, and forest resources of the state, as well as the control of a special fund designed for advertising these resources. The commission is authorized also to develop within itself an efficiency department to investigate, upon proper authorization, the efficiency of any department of the government, and, under the direction of the governor, "to investigate and report upon any question having to do with the efficiency of the various industrial and manufacturing enterprises throughout the state."

Aside from these measures, which, with one or two exceptions, were designed to prepare the way for administrative reorganization, the program included a score or more of measures designed to simplify and facilitate administrative procedure, and, by tightening the lines of administrative authority, to promote efficiency and economy. Of these the most far-reaching were acts (amending and strengthening a previous

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act of February 15, 1924) providing for uniform statements of receipts and disbursements, both state and local, and making it the duty of the state accountant to prescribe a uniform classification of accounts and to publish annually a statement showing in detail the comparative cost of local government in the counties and cities of the state.

Additional financial safeguards are contained in measures limiting the power of state departments and institutions to create deficits; requiring of all local governing authorities the preparation and publication of annual budgets, with opportunity for public hearings; requiring periodic audits by the state accountant of local receipts and disbursements, and public hearings in advance of proposed increases in the tax levy; limiting the power of local school boards to create deficits or borrow money without authorization by the proper local governing body, granted after public hearing; and prohibiting bond issues for local purposes without authorization by direct vote of the people.

Still other measures included a reduction of the number of commissioners of the revenue to one for each county; reduction of the compensation of fee officers and provision for publicity and control of the expenses of such officers; appointment, instead of election, of members of the state corporation commission; segregation of sources of state and local revenues, including a resolution to establish the principle of segregation as a part of the state constitution; separation of the department of game and inland fisheries and the department of commercial fisheries; and the bestowal of additional powers of local legislation upon county boards of supervisors.

This program must be regarded, of course, as only a beginning, but when it is remembered that it represents the first systematic attempt in many generations to reorganize state and local government in Virginia, its significance becomes apparent. The program is not without defects. Many persons would have preferred the creation of a tax commission with three full-time members, and many doubt the wisdom of the proposal to write the principle of tax segregation into the organic law of the state. There is still some tendency to multiply special boards and commissions whose functions could better be combined with those of agencies already in existence. But these defects are small when compared with the great constructive program completed. A new tax system has been established, the lines of administrative control have been vastly strengthened and improved, the principle of the short ballot and administrative consolidation has been sanctioned, and the first steps

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have been taken toward making the governor the business head of the state.

Naturally, the most formidable task is still ahead. The real contest will come when the details of the reorganization plans are submitted to the General Assembly, probably in a special session called for their consideration. The retaining of the New York Bureau of Municipal Research, which is now directing the survey of state and county government, is sufficient guarantee that this work will be comprehensive and thorough, while conforming, so far as reasonably may be, to local environment and conditions.

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Controlling Court Procedure by Rules rather than by Statutes. There is a well-nigh unanimous opinion that American procedural law needs reform. Why, then, is it not reformed? It may be answered that genuine reforms are not easily discovered, and that when discovered their concrete formulation, their popularization, and their adoption are not accomplished without much effort. Some well-informed persons, however, are convinced that there is a special impediment to procuring procedural reform, arising from the fact that the enactment of reform lies with the legislatures rather than with the courts.

In support of this view it is urged that many legislators are not lawyers and are unfamiliar with court procedure, its defects and its needs. These men cannot readily understand the bearings or probable effect of a proposed reform. They are timid about changes which they do not comprehend. A center of inertia, and often of opposition, is thus almost predestined. The members of the legislature who are lawyers are more teachable about legal reforms. But they are never drawn from the bench and seldom from that class of lawyers most able to appreciate the need for and probable effects of a proposed reform, namely, attorneys of the widest experience and the highest ability. Most of the lawyers in the legislature are comparatively young men seeking prestige in aid of their practice or older men who have sacrificed their practice considerably to do constructive work along governmental lines. Thus, even the lawyers in the legislature are not those of the profession best fitted to pass on procedural matters. The total result is that much education must be carried on and much inertia overcome before a change in procedure can get a real hearing.

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When we add to the natural ineptitude of the legislature for the task their steady preoccupation with other and more pressing matters, we can realize why legal reform fares ill. Again, our legislatures commonly meet but once in two years. This unduly postpones changes in details. For sweeping reforms, two years of consideration would be proper. For subsequent detailed changes or modifications, it is unnecessary. In England changes can be made by the Rules Committee any time after forty days' notice. The atmosphere of politics, personal influence, and trading which prevails in the legislature is not conducive to expeditious or sound legal reform. Finally, the governor's veto has shown itself, at any rate in California, capable of blocking wise and well-considered reforms.

On the other hand, the Rules Committee in England is admirably constituted for securing a sound and flexible procedure. It is composed of eight selected judges and four selected members of the lawyers' societies. The selections, aside from four judges who are designated by the statute as ex officio members, are made by the "chief judicial superintendent" of England, the Lord Chancellor. This group of twelve specialists may change almost anything in English procedure. Before an alteration is made, forty days' notice is given to the profession to enable the committee to have the advantage of criticisms and suggestions. The proposed rule can then be at once reconsidered, perhaps amended, or reframed and passed. Either house of Parliament may annul it; neither has ever exercised the power. Nevertheless democratic control in the possible case of an abuse of power by a Rules Committee is thus provided.

The Rules Committee, then, as contrasted with the legislature, has many advantages. It is wieldy. It has knowledge of the subject matter and intimate experience with procedure in actual use. It may meet at any time. It can act promptly. It is free from politics. It is not busy with a thousand other matters likely to monopolize its time. With a rules committee endowed with power to act, we also might hope for a new era of procedural law. Of course the present rules of procedure, whether the result of decisions, statutes, or prior rules of court, must be capable of modification by the rules committee. A rules committee without power to modify the present statutes or codes governing procedure could do little to relieve the situation.

There are other advantages in the rules committee method. At present we blame the courts and lawyers for faults in court efficiency which are largely the results of legislature-made procedure. The power to reform

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should be placed in the hands of those whom we hold responsible for the present bad condition. The procedural statutes bind the courts often against their own sense of justice. There is much waste of judicial time in construing procedural statutes, in attempting to make them accomplish justice, in settling mere procedural questions. This time could be saved and the attention of our courts given to determining controversies on their merits. If a disputed construction of a rule of court presented itself, the rules committee could promptly modify the rule to clarify the matter. Mistakes and omissions in the rules could be speedily corrected. We need not await the chance occurrence of a case involving the rule to get an ambiguity cleared. If a rule proved defective we need not await a biennial legislature to get it remedied.

Having participated in the making of the rules, the judges would understand their purpose. A more sympathetic and intelligent construction might be expected than has been given to the codes of procedure and statutes of the past. It is highly probable that courts would deal rather summarily with technical objections based on the wording but contrary to the spirit of the rules, and therefore that attorneys would cease to make such objections. Such, at all events, has been the experience in England in the field of evidence.

What has been accomplished? The story of the adoption of rule-governed procedure in England has been told in splendid fashion by Samuel Rosenbaum, of Philadelphia, in his "Rule-Making Authority in the English Supreme Court." Of course all courts have constantly exercised the power to make rules of court to supplement the statutes concerning procedure. These rules sometimes settled or modified the previous practice as established by court decisions. Under statutes beginning in 1833 rules of court were adopted which were quite revolutionary in character. But it was not until 1875 that procedure generally was made subject to rules of court.

Even then the Rules Committee was forbidden to alter the rules of evidence in jury trials, to do away with the oral examination of witnesses, or completely to abolish the jury. However, the rules of evidence have ceased to be the fetich in England that they are in the United States; objections to the admissibility of evidence are seldom heard; the appellate courts are rarely asked to deal with them. No one desires to abolish the oral examination of witnesses. Jury trials have been so limited in England that they no longer cause irritation and disgust. The limitations on the powers of the Rules Committee are therefore less serious than they at first appear. This method of settling procedure

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has proved remarkably successful in practice. No considerable number of English lawyers would be found in favor of a return to the legislative system.

In Chapter XVI of Mr. Rosenbaum's book one may read of the spread of this system to the other parts of the British Empire. It must suffice here to say that it has been almost universally adopted. The important exceptions are Quebec, governed by a French code of procedure, Prince Edward Island, and New South Wales. In the last two jurisdictions procedure is approximately what it was in England about 1860, being governed mainly by statutes. These jurisdictions are not up with the procession.

The most interesting conclusion to be drawn from this wide adoption of rule-governed procedure is that it may be used successfully in communities of very different character. Its utility is not confined to urban centers or to densely populated and highly developed states like England. It works in agricultural and sparsely inhabited Canada, in India with its millions of uneducated and undeveloped subjects, and in composite South Africa with Roman-Dutch law as the basis of much of its jurisprudence. It has not functioned as fully in all parts of the Empire as in England. However, taken as a whole, the British experience indicates that the governing of procedure by rules of court may operate successfully in any of our American states. The chief conditions needful for effective operation are (1) a small group of judges who are alive to the crying need for procedural reform and who will study the English system and seriously attempt to apply it to their local needs, (2) a sympathetic attitude on the part of the other judges of the state, so that the system may not be largely destroyed by construction as was code procedure, (3) a bar willing generally to give the new system a fair trial.

Despite strenuous efforts on the part of the American Bar Association and of many state associations, and despite the almost unanimous approval by our most eminent lawyers, comparatively little has been accomplished toward the reform in this country, as will be apparent from a hasty survey.[23]

In Alabama the Supreme Court was given, in 1915, full power over procedure, including the rules of evidence. There is no clear statement that this power extends to the modification of statutory provisions;

[23] The following references will guide one who wishes to investigate for himself: *Journal of the American Judicature Society, passim*; 12 *Mich. L. R.*, 362; 2 *Minn. L. R.*, 81; 13 *Mo. Law Bul.*, 3. Rules of court may be found conveniently in the front of the volumes of the West Publishing Co. reporter system.

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but such seems the fair implication. The failure of procedure in Alabama, if any, may therefore fairly be laid at the door of the Supreme Court. In the ten years that have elapsed since the statute was passed the court has done nothing of importance to make procedure better.

In Colorado, in 1913, the Supreme Court was given full power, with the right to modify statutory procedure. It is true that some changes were made in 1914. They were, however, fragmentary. There was no attempt to overhaul procedure and make it businesslike. There was criticism of some of the new provisions, and, indeed, an attempt, though vain, to repeal the law giving the court power. Slightly modified rules were passed in 1917. In twelve years substantially nothing has been done.

Delaware's highest court has had the power to govern procedure by rules in actions at law since 1852, and the grant was reaffirmed in 1925. The court may even alter statutory procedure. So far, however, the court has left its power substantially unexercised.

Since 1851, the Michigan Supreme Court has had broad powers over procedure. A judicature act of 1915 reaffirmed these. Something was done by the Supreme Court in promulgating the circuit court rules of 1916. Even these, however, took no radical steps. Assumpsit and trespass on the case survived. Some progressive changes in pleading were adopted. It cannot be said that the Michigan Supreme Court is living up to its opportunities. The legislature often passes acts concerning procedure, and the Supreme Court does little.

It has been said that the New Hampshire Supreme Court exercises a power to govern procedure by rules. This seems an over-statement. It does not appear that it has ever attempted to modify a statute or to provide for the procedure in the lower courts. Rule-making power, thus limited, is conceded everywhere.

New Jersey is our brightest spot. The Practice Act of 1912 gave the Supreme Court full power in common law cases; the Chancery Act of 1915 gave the chancellor full power in cases in equity. Rules to be effective until changed were added to each act by the legislature. Hence in both branches of the law New Jersey is working under rules rather than statutes. The chancellor adopted new chancery rules in 1917; his power has been exercised and in a progressive spirit. The Supreme Court has made no important changes in the rules that accompanied the act giving it power in cases at law. Are our Supreme Courts too busy or too uninterested to function in this matter?

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In 1919 the Supreme Court of North Dakota was authorized to pass rules prescribing uniform procedure in the lower courts. But to date no such rules have appeared.

The power given the Vermont courts in 1915 is apparently restricted and has not been much used.

Since 1916 the Supreme Court of Virginia apparently has had power to pass rules for all courts and to alter statutory procedure. It has done nothing. It has been suggested that this may be due to lack of an appropriation for assistance in the task. It has also been said that the court is waiting until the Supreme Court of the United States obtains power and formulates rules, in the hope that such rules would be generally adopted and so become uniform.

The Supreme Court of Washington, in 1926, was given full powers. No revision of procedure by the court has so far appeared.

The Supreme Court of the United States has long had power to control equity procedure by rules of court, and has done so. The equity rules of 1913 are a serious and apparently successful attempt by an American court to make genuine reforms in procedure by rules. The Supreme Court also controls procedure in admiralty, bankruptcy, and copyright matters by rules. For ten years there has been before Congress a bill to give the Supreme Court power in common law cases. So far it has failed of passage. Persons fearful of the power of the courts—surely the least powerful branch of our government, having neither the purse nor the army—and the same persons or others, feeling that the principle of democracy demands that the people through their legislatures should control procedure, have obstructed it. Democracy, however, is best served when the people act through their most efficient agents for the work in hand.

A priori the Supreme Courts should function better than the legislatures. The legislatures have done badly. The Supreme Courts, however, have thus far done next to nothing. Probably a rules committee or a judicial council serving as such, would be more active and more efficient than a Supreme Court. It is perhaps early to dogmatize about the matter. Some Supreme Court may yet surprise us by its vigorous, thorough, and enlightened revision of its local procedure.

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NOTES ON INTERNATIONAL AFFAIRS

EDITED BY BRUCE WILLIAMS

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The Origin of the System of Mandates under the League of Nations: Further Notes. In an article entitled "Origin of the System of Mandates under the League of Nations," published in the REVIEW in November, 1922, the present writer ascribed the devising of the mandate system in the form in which it now exists and is operated by or under the League of Nations to President Theodore Roosevelt and Secretary of State Elihu Root, in connection with discussions carried on by them with German and French representatives in Washington at the time of the Conference of Algeciras (1906). To the treatment of the subject there given it is now possible to add certain notes not wholly without interest and importance in the settlement of what appears to the writer to be an important problem of international constitutional history.

The conclusions reached by the writer in the article cited have been sharply challenged by Mr. Luther H. Evans, writing on "Some Legal and Historical Antecedents of the Mandatory System" in *Proceedings of the Fifth Annual Convention of the Southwestern Political Science Association*, March, 1924, and by Mr. Walter R. Batsell, director of the Reference Service on International Affairs of the American Library in Paris, in writing on "The United States and the System of Mandates" in the *Revue de Droit International* for July-September, 1924.

The challenge put forward by the latter writer appears to rest on the propositions that the use of the term "mandate" by Roosevelt and Root in 1906 "is by no means the first use of the word 'mandate' in its present connotation, that it is used by practically every writer to describe the status of Bosnia and Herzegovina between 1878 and 1908, that it is used repeatedly in the correspondence concerning Egypt after 1880, and that even more clearly than in the Roosevelt correspondence it was used in the negotiations between representatives of Great Britain, Germany, and the United States at Washington, June 25 to July 26, 1887, to discuss the disposition of Samoa."

Evans, on the other hand, reviews what he considers to be various antecedents—more or less direct—of the mandate system. "Thus the

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United States had the 'moral mandate' of the world to intervene in Panama and build the canal," citing and quoting Stowell, *Intervention* (1921); "France acted on a 'moral mandate' from the rest of the world when she intervened in Syria in 1860," again citing Stowell. Evans admits the absence of any "commission of authority from anyone" in these cases and, indeed, appears to mention them only to exclude them as prototypes of the present system. A second type of cases is found in those instances where relationships have been established by treaty and then are later described as cases of mandate. "The control which Austria-Hungary assumed over Bosnia-Herzegovina by the treaty of Berlin has been designated as pursuant to a mandate from the remainder of Europe"; but this Evans denies, citing Baty, "Protectorates and Mandates," in *British Year Book of International Law, 1921–1922*, 115, therein apparently differing from his collaborator Batsell; similarly he denies that the treatment applied by the powers to the Congo Free State is a case in point. He cites, instead, as being more in point, the proposal for the establishment of mandate arrangements over Samoa, never adopted, and also the arrangement actually set up in Crete in 1898 whereby Prince George of Greece was installed in the island as "high commissioner . . . with a temporary mandate of three years for the pacification of the island and the establishment of a regular administration," in spite of its peculiar character, it being vested in an individual rather than in a nation, and without international supervision. Evans then cites the Moroccan case; but, while he admits that it is "strikingly similar" to the general theory of "the mandatory system as now conceived," he places it merely on a par with other examples or prototypes mentioned, not because it was "unrealized (sic) like the first [the Samoan proposal]," but because he believes that "the nearest approximation to the mandatory system is . . . to be found . . . in the practice of the British Empire in delegating the powers of administration to one of its constituent members (sic) for the governing of a backward area over which the Empire had assumed a trust." Examples are cited in the grant of authority in 1887 to Queensland to govern New Guinea, "over which a protectorate had been assumed," in the grant of power in 1905 to Australia to govern Papua, and ("an even more significant example") in provisions of the South Africa Act of 1909 regarding government by the Union of the territories of Basutoland, Swaziland, and Bechuanaland. Apparently the Empire is to be regarded as the League, the Dominion as the mandatory, the protectorate as the mandate. The Empire has assumed a trust, recognized a duty of tutelage,

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delegated authority of administration, and prescribed conditions; the grant "to a subordinate nation (sic)," it is said, "could be revoked."

In evaluating these exhibits and interpretations and objections one can do nothing but review them in detail. We may best take them up in an order roughly the reverse of that in which they have been stated.

It appears to the writer that the case last mentioned is very far from the point, both in theoretical form and in historical fact. The British Empire is not a league of nations, no matter what efforts of imagination or of propaganda may be made to picture it in such a light; the other "constituent parts" of the Empire had nothing whatever to say about the delegation of power to Queensland or South Africa in the cases mentioned, nor about the manner in which the "mandate" was later exercised. As Mr. G. L. Beer, the soundness of whose claim to speak on this subject will appear later, has said, this arrangement was "not international but domestic or intra-imperial."[1] Finally, there is no shred of evidence that these cases played any part in leading to the establishment of the mandate system at the Peace Conference in 1919.

The Cretan case we should set aside entirely in view of the characteristics already mentioned. These deprive the incident of any standing as a prototype of the present system. Again there is no evidence that this case was in mind at Paris in 1919. In the Samoan case likewise, the "mandate" was to be vested in an individual, and no provisions were made for regulated supervision, reports, or control of the exercise of it. Further than this, the arrangement was never set up in actual operation; nor is there any evidence that it was influential in leading to the action taken in 1919.

With Evans' elimination of the Congo and Bosnian cases there must be general agreement. The Congo arrangement, in particular, was wide of the mark, as others have shown, because the mandate was to be vested in an individual and because no organized supervision was provided.[2] With Evans' elimination of so-called "moral mandates" from the field as actual precedents we should also readily and emphatically agree.

Batsell's emphasis upon the use of the term in previous cases seems unsound. The term was, indeed, in use for centuries prior to 1919, but never to designate exactly the arrangement worked out for Morocco or that set up under the League in 1919. The place properly to be ascribed

[1] H. W. V. Temperley, *The Peace Conference of Paris*, II, 236.

[2] Beer, in Temperley, II, 236; Sir Frederic Lugard, "Mandate System," in *Journal of the Royal Society of Arts*, Vol. LXXII, No. 3736 (June 27, 1924), 537.

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to the Samoan proposal, where the term was indeed used, has already been indicated. As for assimilating Egypt under Britain after 1880 with the mandate system, such a feat of the imagination requires a juggling of facts and principles which seems unwarranted. That imperialistic propaganda should make the attempt—no less than to paint the Empire as a League of Nations—is not surprising; but it appears none the less futile.

Finally, the position of Austria in Bosnia has been characterized by "practically every writer" as a "mandate" position only since the establishment of the League system in 1919, and the position certainly was not so regarded, except in the loosest generic sense, before that time. There was no definition of the duties of the "mandatory"—as there had not been, indeed, in the Samoan, Congo, or Cretan cases—much less any supervision of the execution of the mandate, which is the most important test of all.

The facts of the matter are that not until 1906 was the mandate scheme worked out so as to assume its present form; that in the Moroccan case it came to possess all its essential elements, i.e., international bestowal of a mandate of administration over colonial territory upon a nation not holding sovereignty of that territory, definition of the mandate, and, most important of all, supervision of execution of the mandate; that it was (contrary to Evans, and contrary to Lugard also, for that matter) actually put into operation in Morocco—with Swiss rather than Italian inspection on behalf of the powers; and that the plan of 1906 actually was influential in the deliberations of 1919, as has already been shown.

In other quarters attention has been called to the fact that Mr. Walter Lippmann, in his volume entitled "The Stakes of Diplomacy," published in 1915, dwells at length on the Algeciras scheme as a landmark in the development of world organization. It is suggested that the Algeciras idea reached the Covenant via Lippmann and the (American) House Commission.

Similar suggestions have come from other quarters. Thus it has been alleged that Mr. George Louis Beer, who was offered, shortly before his death, as it is said, the headship of the mandate commission under the League, was the real originator of the plan for the mandate system and first used the term himself—the earliest use of the term in its present technical signification—in a memorandum completed early in 1918 and submitted to the House Commission.[3] It is even said that the whole

[3] Beer, *African Questions at the Peace Conference* (1923), ed. by L. H. Gray, xix.

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idea, as well as the term, originated with Mr. Beer and that the Covenant adopted most of his ideas. It is admitted, apparently, that this adoption may have come about "independently" (Beer, ed. by Gray, as cited, xix), but it is asserted that "the mandates follow in all essentials the lines which he had foreseen to be best."

It is, of course, impossible to claim for Mr. Beer any originality in employing the term mandate, even in its present technical signification, as the present writer's original article, published in 1922, should have made clear to Mr. Gray before his work was published. What is more important, there is no evidence that Mr. Beer's memorandum, or any other material in the hands of the House Commission—and this applies to any suggestions which Mr. Lippmann may have made to that body—exercised any influence upon President Wilson prior to his adoption of the Smuts proposals. Indeed, Mr. R. S. Baker tells us that up to the time of his arrival in Europe Mr. Wilson had not considered the incorporation of the mandate idea in his plan,[4] and that—as we well know—the plan was taken by him directly from General Smuts' "Practical Suggestions."[5] It is, however, interesting to note that Mr. Beer himself cited the Algeciras plan as precedent for the scheme which he was advocating.[6]

Finally, Baker tells us[7] that Smuts took his plans from other thinkers more radical than himself, including the Inter-Allied Labor and Socialist program of February, 1918; and W. G. S. Ormsby-Gore, formerly British member of the mandates commission, names Philip Kerr as General Smuts' coadjutor in this matter.[8] This confirms the description given by the writer, in his earlier treatment of the subject, of the manner in which the Algeciras arrangement of 1906—the invention of Root and Roosevelt, and favorite model for international colonial administrative reorganization among English Liberal and Socialist thinkers in the period 1915–1918—made its way into General Smuts' "Practical Suggestions," and thence via President Wilson into Article XXII of the Covenant.

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[4] *Woodrow Wilson and World Settlement* (1922), I, 265.
[5] *Ibid.*, I, 226–265, 424, and especially III, Document 10.
[6] *African Questions at the Peace Conference* (ed. by Gray), 425.
[7] *Woodrow Wilson and World Settlement*, I, 227.
[8] "The Mandatory System," in Temperley, VI, 500–501.

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The League of Nations: A Corporation, not a Superstate. When, following the treaty of Versailles, the League of Nations came into existence there was much confusion of thought in the attempt to fit into already existing mental concepts this new thing that had been born from the war travail of the world. This was especially true in the United States, because of the suddenness with which a people accustomed to think in terms of the western hemisphere was plunged into the maelstrom of world affairs, and also because of the fact that the League almost immediately became a subject of political controversy, first between the president and the Senate, and later between the rival parties in the campaign of 1920. Once this situation had arisen, if one party asserted that the League Covenant, exactly as written, must be accepted as the thing for which the United States had been half consciously fighting the war and as the means of making the world safe for the future, it was almost inevitable that the other party should either attack it as creating a dangerous and powerful superstate, or else ridicule it as creating an anomalous thing, so futile that without the United States it would amount to nothing. In fact the other party did both.

In such a political tumult clear thinking was almost impossible and a fair definition would not have been listened to. It is my purpose now to show that the League of Nations of today is neither an anomaly nor a so-called superstate, but simply a corporation—that very convenient invention for getting joint business accomplished with which we are all familiar.

Why then is it not a superstate, or rather, how would a superstate be described, and would such a description fit the League of Nations? First as to the term "super." It would seem to imply power, superior authority, some such relationship as exists between an empire and the principalities that it rules over or between a federal government like the United States and the individual states which have delegated part of their authority to it. The League has no such power or authority over its members. It can issue no commands; it can make no rules or regulations binding on any member without that member's express consent.[9] The argument once advanced that a nation might have a

[9] "Except where otherwise expressly provided in this covenant . . . decisions at any meeting of the Assembly or of the Council shall require the agreement of all the members of the League represented at the meeting" (Art. 5, Par. a). Note: The exceptions are on matters concerning the running of the League itself, such as elections, and procedure, and to *recommendations* which may be made by the Council in certain cases.

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moral obligation, stronger than any legal obligation, to consent to what it disliked is absurd. Practical politicians do not create a veto power and expect it to lie idle when needed.

It is true that amendments to the Covenant may be made by a three-fourths majority of the Assembly and ratified by a majority of the member states.[10] But any member displeased with such amendment may withdraw from the League, and may withdraw in any case on due notice. That a federal republic or an empire would not so lightly allow its member states to secede the history of many a civil war amply proves.

If, then, the League is not a superstate, is it a state at all? The recognized authorities are pretty well agreed on what a state is. Let us consider what a few of them say and see how far their definitions can be considered to describe the League of Nations.

First, Snow: "A state must be an organization of people for political ends; it must permanently occupy a fixed territory; it must possess an organized government capable of making and enforcing law within the community; and finally, to be a sovereign state, it must not be subject to any external control."[11] Next, Salmond: "The exclusive possession of a defined territory is a characteristic function of all civilized and normal states."[12] Finally, Oppenheim: "A state . . . .is in existence when a people is settled in a country under its own sovereign government. The conditions which must obtain for the existence of a state are therefore four: "There must be first a people, an aggregate of individuals . . . who live together as a community. . . . There must, secondly, be a country in which the people has settled down. . . . . There must, thirdly, be a government. . . . There must, fourthly and lastly, be a sovereign government. Sovereignty is supreme authority, an authority which is independent of any other earthly authority. Sovereignty, in the strict and narrowest sense of the term, implies, therefore, independence all around, within and without the borders of the country."[13]

To cite further authorities would be superfluous, so obvious is it that the League of Nations lacks most of the important characteristics of a state. It is not a "people," an aggregate of individuals living together as a community; it has not a foot of territory of its own, unless the old

[10] The procedure is slightly more complicated, but the description given is substantially correct. See Art. 26 of the covenant as amended.

[11] *International Law*,19.

[12] *Jurisprudence.*

[13] *International Law* (3rd ed.).

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hotel in Geneva now used as an office building by its secretariat may be so described; and though it may make recommendations to its members, it has not the authority to enforce them, and hence is not sovereign.

A striking example of this lack of sovereignty is the well-known fact that some of the weaker nations in the League[14] have not paid their contributions towards its maintenance for several years, if ever. Quarterly statements are sent from Geneva to these delinquent members, but they are as blithely disregarded as so many charitable appeals. The League has no power by which it can collect these debts, and no resort apparently except that open to a private club in the same circumstances, i.e., expulsion from membership. And yet no legal principle is more clearly established than that the power to lay and collect taxes is an essential attribute of sovereignty.[15]

If the League of Nations is not a state, what reasons are there for classing it as a corporation? Simply that it has all of the essential characteristics of a corporation, that it functions in the same manner as a corporation, and that its internal structure or organism is that of a typical corporation.

The characteristics of a corporation are the following[16]:

First, it is an artificial being created by law; that is to say, usually by a charter from the sovereign power or state. The League of Nations is certainly an artificial being, or in other words an entity separate and distinct from, and something more than, the sum total of its members. It was created by a special charter, the Covenant of the League, in which all the signatory states combined their sovereign "corporation making powers" to give it existence. Herein, it is true, the League differs from the usual domestic corporation, which may be created by any one state acting alone. But this does not mean that it is any the less a corporation; it means only that it is probably the first truly international corporation made by the joint action of many sovereign powers instead of by the single action of one.[17]

Second, a corporation exists "as a body politic" under its own special name. Obviously the League fits into this description.

[14] China, Liberia, etc. Argentina has paid nothing since 1920, but its present government is reported to be strongly "pro-League."

[15] State Freight Tax Case, 15 Wall (U. S.) 232.

[16] For a legal definition of a corporation consult Fietsam v. Hay, 122 Ill. 293; Dartmouth College Case, 4 Wheat 666; or any good legal text-book or dictionary.

[17] By both the civil and the common law the sovereign authority only can create a corporation.

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Third, it has the capacity of perpetual succession. This, in legal phraseology, means that although the original or later members may change or pass away, the corporation does not therefore come to an end, i.e., that a succession of new members may entirely or in part supplant the original members without destroying the entity or existence of the corporation. Similarly, it is possible under the Covenant for new nations to join the League's membership[18] at any time (in fact several have done so since its formation) and for former members to withdraw[19] without affecting its continued existence.

Fourth, a corporation has the capacity of acting within the scope of its charter as a natural person. Like a natural person it can buy, sell, and own property, make contracts, and borrow money, provided these acts are incidental to the purpose for which it was created, and can also do the things set forth in the charter as within its powers, but it can go no further without acting *ultra vires.*

Here we come to the second proposition—that the League of Nations functions as a corporation. We have already seen that it cannot levy and collect taxes, neither does it have the power, inherent in all states, of coining money or emitting currency to meet its needs. When it has been short of funds it has borrowed from the Swiss banks, giving its note, signed by the Secretary-General and accompanied by a certified copy of the Council's resolution authorizing the borrowing, exactly as any corporation would be required to do.[20] When it needed supplies it could not requisition them; when it wanted land on which to house the offices of the Secretariat it had not the power of eminent domain, the power of a state to take what it needed and pay afterwards at its own price. Like any other private corporation, the League can only buy what is offered for sale, and at the seller's price.

Naturally, the League can do certain things that no other corporation has ever been granted the power to do—that perhaps no other corporation, created by a single state, could have been given the power to do: things in the international field, such as the calling of conferences, the supervision of mandated territories, the creation of international commissions, or the government of the Saar Valley. It was for such purposes that it was created, and all these actions are envisaged in its charter. Its actual power is not one-tenth that once wielded by such corporations as the Hudson Bay Company or the British East India Company,

[18] Art. 1, Par. b.
[19] Art. 1, Par. c.
[20] Statement of the Financial Director of the League.

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although its influence as a moulder of world opinion is undoubtedly intended to be enormous.

One more point. The League has the internal structure, the organism, common to most corporations. Let us examine only two, but these the most usual and familiar types, i.e., the incorporated city and the ordinary trading or business company, one a public the other a private corporation.

In the first type the members or citizens meet at long intervals, perhaps of two years, to elect a city council to run the affairs of the city until the next election. The council meets frequently to advise and direct, but the actual administration and business of the city government is carried on by a permanent staff of salaried officials headed by the mayor. Sometimes the mayor and the more important officials are also elected, sometimes appointed by the council.

In the business corporation likewise the members or stockholders meet, usually annually, to elect a board of directors. These directors become responsible for the management of the company, but meet only occasionally, the actual day to day business being administered by the president and other permanent officials chosen by the board of directors.

The League presents the same familiar corporate structure. The member-states meet annually in the Assembly to hear reports and to vote on important matters, including the election of six members to the Council.[21] The responsibility for and direction of the League's affairs between meetings of the Assembly is vested in the Council, which convenes at frequent intervals; but the routine work is carried on by a permanent staff composed of the Secretary-General, who is appointed by the Council, and the officials under his direction composing the Secretariat.

In all three cases the structure is the same, the lines of authority run in the same courses, and the functions of the various parts correspond. Mayor, corporation president, and Secretary-General; city council, board of directors, and Council of League; voting electorate, stockholders, and member-states represented at the Assembly—under different names, all present the same phenomena.

It may be argued that the League may resemble a corporation, but cannot be one because it is *sui generis*, no other exactly like it has ever

[21] Five powers, i.e., France, Italy, Germany, Japan, and the British Empire, have permanent seats in the Council. This is analogous to the condition in some private corporations where certain stockholders have rights not enjoyed by the others, i.e., holders of *preferred* stock.

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existed, it is a new thing in the world. But there was a time when the corporation itself was a new thing and only two or three different kinds of corporation were known.[22] With the development of modern conditions, moreover, the corporate idea has been amplified and applied for more and more purposes, until now it appears in many differing forms. Holland, in his book on jurisprudence, mentions eight distinct types.[23] Because the corporate idea has been extended to a new field to meet a new need—because the League was not created by a single sovereign power, but by many powers acting together—it does not follow that the League is any the less a true corporation; it means only that a new classification must be made for it.

The concept of a public corporation has long been known to the law—that is, a corporation chartered by a state to serve purely political or public purposes. Here we have such a corporation. Its charter, however, the famous Covenant, is an international act, or convention, ratified by several powers, instead of the legislative act of a single power; and accordingly the League of Nations which it establishes should be classified as an international public corporation.

DAYTON VOORHEES.

Princeton University.

Institute of Politics. The sixth session of the Institute of Politics at Williamstown in July–August broadly resembled its predecessors. It brought together as diverse a group as ever, and one which was more than usually dominated by experts within their respective fields. The membership was composed upon the plan, adopted in 1923, of providing each conference with a substantial group of experts, and, in addition, another group whose training made them capable of following the discussions without becoming active participants, and whose professional work afforded an opportunity for the dissemination of the points of view developed in the discussions. One significant modification in the structure of the program consisted in having two of the general conferences, open to associate members, upon the same general subjects as two of the round tables, open only to full members. This device made it possible to summarize in somewhat more popular form the technical discussions upon Mineral Resources in their Political Relations and Chemistry in World Affairs.

[22] The religious foundations and the chartered municipal corporations of the Middle Ages.

[23] Holland, *Jurisprudence* (12th ed.), 340.

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As in past years, the program dealt with subjects of current importance. Plans for the economic and disarmament conferences in Europe were reflected in round tables upon The Limitation of Armaments and New Aspects of the World Economic Situation. The international conferences on questions of extraterritoriality and the tariff in China, together with the anti-foreign movements, brought China conspicuously into the program, and the whole situation in the Far East was surveyed in a general conference. The breakdown of the Tacna-Arica negotiations and the development of a critical situation in Mexico made Inter-American Problems in the Foreign Policy of the United States an appropriate topic for discussion. The round table on Mineral Resources in their Political Relations, begun in the 1925 session, was continued, and this year Chemistry in World Affairs was given especial attention, having not only a round table and a general conference, but a lecture course. Public Opinion, which had only once before appeared upon the program of the Institute, was again discussed in a general conference.

The number of lectures was fewer than in past years. The opening address of Sir Frederick Whyte on the revolt of Asia, and his succeeding discussions of the Indian situation, set an unusually high standard. Sir James Irvine discussed chemistry in world progress in a series of six lectures with lucidity and humor, as well as authority. M. Nicholas Politis lectured upon disarmament and security from the point of view of an actual participant in the diplomatic discussions, who was in a position fully to appreciate the enormous complexity of the subject. Dr. A. Mendelssohn-Bartholdy analyzed the European situation in a series of lectures which reflected not only his practical experience but also his philosophical grasp of the problem. The restoration of Austria, under the direction of the League of Nations, was the topic of the chief actor in that fascinating episode, Dr. Alfred E. Zimmerman.

One of the interesting features of the Institute was the divergence of view between the experts in the round table and the general conference on mineral resources, and those whose principal interest was in chemistry. The round table and the general conference upon mineral resources were in charge of Dr. C. K. Leith, Dr. H. Foster Bain, and Mr. Charles H. MacDowell. They brought many specialists to the sessions to discuss special topics. There was a tendency on the part of the geologists, mineralogists, and mining engineers to view with alarm the tremendous waste of natural resources. The mining engineers argued that when present stocks of important materials are exhausted,

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our civilization will be profoundly dislocated. The experts in chemistry, on the other hand, were pervaded with a striking optimism. Admitting possible temporary inconvenience, they looked forward with assurance to replacing exhausted materials with others equally suited to human needs. In much the same way, the mineralogists laid especial emphasis upon the fact that the natural distribution of resources is distinctly unequal, so that a condition approaching monopoly exists in many essential resources. The chemists, on the other hand, felt that synthetic products would, in many cases, break up national monopolies, and restore a really competitive situation. Both the round table and the general conferences on chemistry were directed by Mr. Harrison E. Howe, who mobilized a formidable group of experts upon various phases of chemistry bearing upon the problem of political relations.

The round table on The New Aspects of the World Economic Situation, led by Dr. Moritz J. Bonn, was not devoted to a statistical review of economic facts, nor to the pros and cons of the cancellation of the Allied debts. The approach was from a more philosophical point of view. Discussions centered upon new economic conceptions which have grown out of the World War, particularly the economic philosophy of bolshevism upon the one hand and of fascism upon the other; the one founded upon the conception that the facts of life dominate the will, the other arising from the belief that will power can be made to determine destiny. The rise of private competitors of the state in the field of economic power furnished another topic of significant interest. The manner in which the power of ultimate decision has tended to pass from governments to economic groups has been one of the striking phenomena of the war's aftermath. Thus at critical times in the last few years the normal balance of power in sensitive areas has been upset so completely that the substance of control was in private hands rather than in those of public officials. The manner in which governments have effectively lost their financial independence and gone into receiverships furnishes a strange and disturbing application to important states of devices hitherto reserved for backward countries and governments whose tax administrations were lax or corrupt. The break-up of Europe into fractions, and the realignment of frontiers upon economic bases other than those which had developed before the war, raised problems which were actively discussed. The debtor's revolt against overburdensome obligations, which has furnished some of the striking passages in American history, has been again exemplified in recent European experience. Nations have palmed off manufactured currency upon their creditors as though it were

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real money. This effective confiscation by that agency which has stood as the bulwark of property causes people to lose faith in their governments. Between socialistic confiscation of private property and confiscation through inflation on the part of capitalistic countries there is little material difference. Thus the consequences of inflation, which seemed an easy way of getting rid of inconvenient debts, have proved disastrous socially, politically, and economically.

International Problems Arising from the Diversity of Legal Systems was a new subject at the Institute, and was discussed in a round table led by Mr. Arthur K. Kuhn. Starting from a survey of the divergent laws of nationality, and the complications which have arisen out of the divergence, the round table considered in succession international problems arising from the diversity of national constitutions, the divergence of laws for the protection of individual and minority rights, and various systems of exercising criminal jurisdiction over aliens. The discussions revealed the growing importance of this field as the number of contacts among nations have multiplied. The problem of adjustment is now more acute than ever before. The conclusion was that uniformity of law could not be hoped for, that diversity of national legal systems is of the very essence of international life, and that the only solution is in a process of coördinating the several national legal structures. Coördination may be achieved through an understanding and appreciation of the character, nature, and extent of the diversities, and through a process of give and take among the states concerned. It was emphasized that where the diversity of legal principles is too great, the possibility of international relations is destroyed. It was as a bridge between nations with fundamental diversities in their legal outlook that the system of extraterritoriality was developed. As that device disappears it is essential that legal systems be brought more and more into harmony.

The round table on The Chinese Republic and the Powers, led by Mr. Henry K. Norton, was overwhelmed with material for discussion. The maelstrom of events in China, with its turbulent surface of civil wars and boycotts, and its tremendous undercurrent of change in the social and economic structure of Chinese life, furnished abundant discussion. The anomaly of the Chinese situation was emphasized. Though there is, and has been, no government capable of exercising authority over any significant part of China, the successive masters of Peking have been recognized by the powers and have been treated as though they were established governments. Ephemeral governments, founded upon paper constitutions, with unenacted codes of law and courts often

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corrupt, overwhelmed in debt, represent an interesting effort to establish republican institutions where there is no citizenry trained for that type of state. The round table considered, in succession, the interests of Great Britain, Japan, Russia, and the United States. British interests, so long dominant in China, have been injured by the recent clashes with the Chinese. The reorientation of Japanese policy since the Washington Conference was described and particular attention paid to the present situation in South Manchuria, and to the growth of Japanese trade and commerce. The revival of American trade with the Far East, together with the growth of American influence and activity, were noted. Emphasis was laid upon the return, at the Washington Conference and since, to the old fundamental policy of a strong united China, in place of merely insisting upon the open door. The aggressive character of the contact of Bolshevik Russia was discussed, as were the effects of the recent Sino-Russian treaty upon the current situation. After an analysis of the changes taking place within the domestic life of China, it appeared to be the consensus of opinion that it is manifestly impossible to grant all the demands of the Chinese. To do so would simply increase the chaos by putting responsibilities upon those who are in no condition to assume them. On the other hand, the policy of force is equally futile. Pressure cannot be brought to bear upon the whole people, and there is no government which can be influenced in that manner. The statesmanlike policy is to refrain from aggression and maintain relations upon as good a basis as possible, giving China time and opportunity to work out a stable political structure.

The round table on The Limitation of Armaments, conducted by Dr. Jesse S. Reeves, founded its discussion upon the premise that armaments can be reduced only in proportion as fear is banished, that there can be no disarmament upon a great scale until there is a mood of moral disarmament, and that the attempt to achieve a diplomatic formula relating to disarmament, while states are still dominated by fear of national disaster, is futile. Disarmament and the sense of security are indissolubly linked. The problems of disarmament, as they affect land forces and naval forces, are dissimilar. The question of the reduction of land forces is infinitely the more complicated. A nation's naval policy is developed out of relatively few factors, which may be ascertained, though not without difficulty. In land warfare the problem is one of the effective mobilization of entire populations. There are so many factors lurking in the formula for the equation of land armaments that the more it is studied the more the problem becomes complicated.

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After discussing the difficulties arising from differences in population, strategic frontiers, and other physical factors, the conference approached the question of the definition of disarmament, which proved so difficult for the Preparatory Commission for the Limitation of Armaments at Geneva. The attempt of the American group to harmonize the conflict between those who would interpret armaments in the material sense, and those, on the other hand, who would include all potentialities, was described. And there was discussion of the reasons why the American suggestion to consider as armaments the effective peace-time strength of a country, and such peace-time stocks of materials as may be made available immediately upon the outbreak of war or very soon thereafter, made very little headway.

The discussion of Inter-American Problems in the Foreign Policy of the United States, under the direction of Dr. Leo S. Rowe, was predicated upon the assumption that the two continents must be regarded in the same light as Europe, namely, as composed of states with diverse interests and aims, whose contact must always be the subject of careful calculation if it is not to develop friction. The naïve assumption that mere geographic propinquity will make cordial its relationship with the countries of South America must be abandoned by the United States. The era of good feeling, which arose in the early period of independence, speedily gave way to an era of distrust, which was dispelled only in the twentieth century. The new period of satisfactory relations was short-lived because of events associated with American policy during the war. At the close of the war, therefore, Latin America turned with satisfaction to the League of Nations, which recognized its world position and which the United States abstained from joining. This affiliation was the more natural because the cultural relations of most of the Latin American countries are with Europe, and there is, therefore, a natural tendency for the nations of Latin America to be drawn into the European system. The feeling that the United States is an overwhelmingly large and powerful state led many South American leaders to feel that the League offered a remarkable opportunity for a counter-balance against the United States. The new lines of economic relationship between the United States and the South American countries give them more reason for such an affiliation, because they wish to avoid the political dependence upon the United States which might flow from economic dependence. The League has been careful to give ample recognition to Latin America and at the same time has not intervened in Latin American disputes in a way to involve the United States. There is no

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occasion to expect difficulty from the relationship of Latin America with the League if the situation is wisely managed, but neglect might well result in a situation wherein the United States would appear to represent one unit of power and the League of Nations an entirely different one. The repercussions upon American policy would inevitably be unfortunate. The consensus of opinion seemed to be that the United States should make a constant effort toward better understanding of Latin America—an understanding founded upon an appreciation of the culture and institutions which have developed among our neighbors. It is altogether likely that the conviction that self-government can be taught must be abandoned, for it involves an attitude of mind certain to be resented, and suggests policies which smaller and weaker states inevitably misunderstand. The United States must be watchful to discourage the formation of a balance of power in this hemisphere. Because of its tremendous strength, the United States must avoid even the appearance of a desire to dominate her southern neighbors, and should be prepared to settle all inter-American disputes, whatever may be their character, by conciliation or by arbitration. This would involve a much broader and more liberal policy with reference to arbitration treaties than the Senate has yet approved.

The general conference on The International Situation in the Far East, led by Dr. George H. Blakeslee, was addressed by a remarkable group of experts. The keynote was the thought that one of the greatest problems confronting mankind lies in the readjustment of the relationship which exists between the East and the West. The need for such a readjustment is manifested by the fact that the East is in revolt. In Japan the revolt is aimed against unequal treatment in immigration legislation; in China, against unequal treaties such as those relating to the tariff, and to extraterritoriality; in India and the Philippines, against the political control of foreign powers.

The survey of the situation in the Philippines developed five suggested solutions, running the gamut from immediate complete independence to the permanent retention of the whole archipelago by the United States, with no further political rights for the people. The discussion of these several policies revealed the impossibility of harmonizing them, and the probability, on the basis of political experience, that neither of the more extreme proposals is likely to gain acceptance. Nor is the suggestion that the islands be partitioned likely to have much support. The proposal which attracted the greatest interest involved some form of "dominion status," such as that occupied by Canada or Australia in the British Commonwealth.

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China was described as "the point of greatest friction in the contact of East and West," the outstanding fact being the existence of a newly aroused, intense, widespread nationalism. The demand on the part of China for the abolition of "unequal treaties," the complete control of its own tariff, abolition of extraterritoriality, the limitation of foreign rights of municipal administration in treaty-port concessions and settlements, and the abrogation of treaties which give foreign powers military and naval rights, were reviewed in turn. The conclusion was reached that a tangible beginning must be made in meeting the natural desires of China. Should the powers refuse to take action, the Chinese will probably cancel the treaties which give foreigners special rights. Unilateral cancellation of the treaties would bring about a grave situation. It would probably lead to local military clashes with foreign powers, and to increased bitterness. On the other hand, it is clear that the demands cannot now be granted in full. The responsibility for delay must be divided between the powers and China.

Manchuria was described as the focal point in the conflicting policies and interests of Russia, China, and Japan. An analysis of the historical and economic interests of these countries revealed that each, taken individually, seems to have reasonable claims. It is natural for Russia to wish to maintain control of the Chinese Eastern Railway, which is an integral part of the trans-Siberian system, and to have the exclusive right of further railroad development in northern Manchuria. It is natural for Japan to wish to retain the South Manchuria railroad and the leased territories, which she has administered magnificently, and to wish to coöperate with China in extending railroad development in all parts of Manchuria. It is natural for China, the sovereign power, to demand that both Russia and Japan give up their governmental and semi-governmental privileges and transfer them to China. But, taken together, these interests produce a dangerous situation.

Japanese policy was analyzed on the basis that the country's large population and small territory make necessary coöperation with China. In order to develop this thesis, the successive phases through which this policy has moved since the Russo-Japanese War were passed in review. The policy of the United States was outlined and defended as having been reasonably consistent, indeed more consistent than the policy of any of the other great powers. The United States has always pursued the policy of the integrity of China, and the policy known as the "open door." In addition, it has been the evident purpose of America to treat China as a fully sovereign state, but in doing so, to avoid the

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use of military force except in compelling circumstances. While the policy has been consistent, there has not been the same consistency in carrying it out. At times the United States has used the method of independent action, and at other times has turned to that of coöperation with other powers. In recent years she has carried the coöperative method further than ever before, and at present is endeavoring to grant to China almost immediate control of the tariff and seeking to bring about an early modification of the operation of extraterritoriality.

The general conference devoted to Public Opinion in World Affairs under the leadership of Mr. Arthur S. Draper, concerned itself chiefly with the power of the press. The early sessions of the conference were devoted to an analysis of public opinion and its constituent elements, and the importance of intangible influences upon it. The speakers compared the American press with the press of Europe. American newspapers excel in gathering news. The range of matter that is covered, the extraordinary quantity of material that is presented, and the clarity with which events are recorded are striking. On the other hand, American papers do not make as careful selection of the material they print as do some foreign journals. The attempt is to be all-inclusive, and the great daily concerns itself with every phase of life, including the trivialities. In the treatment of its news, moreover, the American newspaper is not as scholarly or as literary as some foreign journals. The American press is, in an outstanding sense, a free press. The expression of editorial comment is not as violent or as bitter as that of party advocates in Europe, but it is untrammeled save by canons of taste. Moreover, the press of America is not subsidized and does not often represent official influence. The suppression of news is not commonly practiced; competition in the field of journalism is so keen that it is virtually impossible. In its endeavor to market its news the American press has developed a tendency to advertise its matter with headlines. This effort to state the essence of the news in a few words often leads to distortion, and one of the chief criticisms of the American press is the tendency to sacrifice accuracy in headlines to pungency of statement. After the analysis of the position and power of the press and the difference between its position in America and abroad, consideration was given to the importance of radio, the moving picture, and political organizations in molding public opinion.

HENRY M. WRISTON.

Lawrence College.

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NEWS AND NOTES

PERSONAL AND MISCELLANEOUS

The headquarters of the American Political Science Association at the St. Louis meeting of December 28–30 will be at the Statler Hotel. Other learned societies (including the American Economic Association and the American Sociological Society) meeting in the city at the time will have headquarters there also. The main features of the program will be as announced in the August issue of the REVIEW. A round table has been added on problems in the study and teaching of comparative government. Persons desiring to enroll in advance as members of particular round tables should communicate with the chairman of the program committee, Professor F. W. Coker, of Ohio State University.

Professor Graham Wallas, of the London School of Economics, will be a member of the staff of the Robert Brookings Graduate School, Washington, D. C., during the spring term, from March to June. He will give a course of lectures on "Ends and Means in Social Organization," and will also direct the research of a number of students.

Professor Joseph Redlich, of the University of Vienna, has been appointed professor of comparative public law at Harvard University for a period of three years. He will conduct a seminar in this field for graduate students.

Dr. R. C. Atkinson has resigned his position in the department of government at Columbia University and is now in charge of research in local government under auspices of the Ohio Institute at Columbus.

Mr. Kenneth C. Cole, formerly of St. John's College, Oxford University, has been promoted to an assistant professorship at the University of Washington.

Professor Charles E. Martin, formerly of the University of California, Southern Branch, is now head of the department of political science at the University of Washington and has been appointed dean of the recently organized faculty of social science.

Associate Professor Jacob Van der Zee, on leave from the State University of Iowa, is conducting the courses at the University of California,

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Southern Branch, formerly given by Professor Charles E. Martin. Mr. Odean Rockey has been advanced to the rank of assistant professor at the Southern Branch.

Assistant Dean Rufus D. Smith, head of the department of government at New York University, has been advanced to the rank of full professor. Dr. Rinehart J. Swenson has been promoted to an associate professorship. Mr. Lawrence Fenneman has resigned as instructor in government to accept a legal position in Baltimore.

Dr. Alexander B. Butts, of Mississippi A. and M. College, was visiting professor of politics at the University of Washington during the summer of 1926. He had charge of Dean Martin's courses in international law and in foreign relations.

Mr. Bradford W. West, who has done graduate work at the University of California, and Mr. Claude A. Buss, graduate student at Pennsylvania, have been appointed instructors in political science at the latter institution.

Mr. E. P. Chase, formerly of Wesleyan University, is now associate professor of government at Lafayette College. He gave courses at the University of Vermont in the summer session.

Dr. Carroll H. Wooddy, of the University of Chicago, is spending the year in England studying nominating systems. He holds a Social Science Research Council fellowship.

Mr. Max P. Rapacz, whose graduate work was done at the University of Minnesota and Yale University, has been appointed to an instructorship in political science at the University of Wisconsin.

Dr. Marietta Stevenson, recently a graduate student at the University of Chicago, is now an instructor in political science at the University of Nebraska.

The convocation address at the close of the summer session of the University of Chicago was delivered by Professor A. R. Hatton. His subject was "Representative Government in the Light of Modern Knowledge and Modern Life."

Mr. A. D. McLarty has returned to Illinois as secretary of the Illinois Municipal League and Mr. Orin F. Nolting has been appointed acting secretary of the municipal reference bureau at the University of Kansas.

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Professor A. M. Tollefson, formerly of the University of Kansas, is now professor of law at Drake University. The public law work at Kansas has been taken over by Professor Chubb. A new member of the department at Kansas is Mr. Willis A. Gray, formerly an instructor at Cornell University and last year a Carnegie fellow in international law at Harvard University. Professor W. E. Sandelius, who spent last year as a consulting fellow at the Brookings Graduate School, is again teaching at the University.

A Friedrich List Gesellschaft was organized recently in Germany to perpetuate the memory of the well known political scientist and economist, author of *The National System of Political Economy*. Professor A. Spiethoff, of Bonn University, is chairman, and Professor Edgar Salin of Heidelberg is secretary, of the association, whose offices are at 121–123 Neckarstrasse, Stuttgart. Plans are under way for publishing a complete critical edition of List's works, including his addresses and letters, and his recently discovered American and French writings. The new edition will be under the patronage of the German Academy. Frederick List came to the United States with Lafayette, and was a United States consul from 1834 to 1846. He was one of the foremost writers on American commercial policy.

The University of Virginia is establishing a research professorship in problems connected with government in Virginia, to be maintained for a period of five years and probably to be made permanent thereafter. Emphasis is to be placed at the outset on the reorganization of county government.

The faculty of social science at the University of Washington, through its committee on international relations, has established an Institute of International Relations at that institution. Instruction is given in international relations, international law, foreign trade, shipping, international banking, economics, comparative education, diplomatic history, comparative government, oriental subjects, journalism, philosophy, psychology, and sociology. Groups within the social science faculty coöperating in this undertaking are the departments of anthropology, economics, history, political science, philosophy, psychology, and sociology, the college of business administration, and the schools of law, journalism, and education.

European Conference of American Professors of International Relations. Early in 1926 the Carnegie Endowment for International

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Peace invited some fifty teachers of international law and relations to be its guests at a European conference. It was hoped that this project would enable American teachers of international law and relations to become more conversant with the problems of international association and coöperation, to form direct contacts with some of the leading personalities engaged in the work of international coöperation, and to investigate, at first hand, the sources of documentation relating to international association and coöperation—all with a view to making their teaching and writing more effective.

In pursuance of the plan, conferences were held in Paris, August 5–9, at the ministry of foreign affairs, the Commission Internationale de Navigation Aérienne, the American Library and the International Reference Service, the Office International d'Hygiène Publique, the Bibliothèque Nationale, the Institute of Intellectual Coöperation, the International Bureau of Weights and Measures, and the International Bureau of Bibliography. In the Hague, August 10–13, conferences were held with Dr. James Brown Scott, member of the curatorium of the Academy of International Law; M. Hammarskjold, registrar of the Permanent Court of International Justice; M. Crummelin, registrar of the Permanent Court of Arbitration; M. Van Kleffens, registrar of the Arbitral Tribunal for the Interpretation of the Dawes Plan; and Judge Loder, of the Permanent Court of International Justice. The Hague program was appropriately concluded by visits to "The House in the Woods" (where the First Hague Peace Conference was held) and the University of Leyden, and a pilgrimage to the tomb of Hugo Grotius at Delft. The first week of almost four spent at Geneva was given over to attending the Geneva Institute of International Relations. The next ten days were devoted to conferences with members of the secretariat of the League of Nations, the director of the International Labour Office, and the directors of other international organizations located outside of Geneva.

On Wednesday, September 1, the Conference of Signatories of the Protocol of the Permanent Court of International Justice was convened for the purpose of discussing the United States Senate reservations. The sittings were open to the public, and the members of the Endowment party availed themselves of the opportunity to observe this most interesting and important international conference. Without doubt, everyone who attended was impressed with the extraordinary consideration which the delegates displayed for the United States as a

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world power, and with the world-wide significance of our politics, governmental procedure, and constitutional organization.

During the fourth week in Geneva, every member of the party had an opportunity to attend numerous sessions of the Assembly of the League of Nations, and some were fortunate in securing admittance to one or more sessions of the Council. Thus they not only had an opportunity to examine into the day-by-day work of what might be called the administrative branches of the League and kindred organizations, actively carrying on the task of international coöperation, but they also had a chance to see the political directing forces at work in international conferences, solving perplexing problems and discussing and shaping policies with a view to the gradual establishment of a new world order.

It is not easy to give a summary of the impressions the members of the party carried away from this unique seminar in international relations. A few are here enumerated. But it should be borne in mind that they do not necessarily represent a unanimous opinion. The following may be recorded:

(1) The realization that the present highly developed and manifold organs of international coöperation are the result of a natural and inevitable evolution in international life. The International Postal Union and the International Bureau of Weights and Measures, to name only two, were simply the forerunners of what we now have; (2) The great concentration, in Geneva, of non-League agencies actively engaged in various phases of international coöperation, and the close coöperation of these agencies with the various sections of the League secretariat. Geneva has indeed become the great international center for world coöperation. This concentration has apparently resulted in increased efficiency; (3) The exceedingly frugal administration of the agencies of international coöperation; (4) The undeniable fact that the League of Nations as a whole is a tremendously powerful, permanent, going concern, although the period of experimentation is not yet over; (5) The far-flung activities of the League. One gets the impression that no subject involving the relations between states has been neglected; (6) The high calibre and technical competence of the personnel of the secretariat. Everyone seemed to envisage clearly the reality of the problems being faced. These problems are being approached objectively; ineffective emotionalism is conspicuously absent; (7) The degree to which politics seems to have been eliminated in the make-up and conduct of the secretariat; (8) The ease with which international

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conferences are now held, and the acceptance of this machinery as the normal, ordinary medium for solving international problems; (9) The uniformly high plane of discussion and debate in international conferences; (10) The dual language arrangement seems to make for greater precision and conciseness of expression because of the necessity of translation. Members of conferences debate but do not indulge in mere oratory; (11) There are indications of a drift in the direction of the Council becoming stronger at the expense of the Assembly. However, one was certainly impressed by the fact that the views of the small states carry great weight. They can make their voice heard, even in the Council; and (12) The cordial attitude of the League states toward the United States. This was particularly evident in the meetings of the signatories of the Protocol. They appeared in a receptive, but not a dependent, mood.

Whatever variations there may be in the impressions that the members of the party received from the institutions and organizations visited, all were agreed on the worthwhileness of the venture. The objectives aimed at were attained, and instruction and productive research in the field of international relations will inevitably be stimulated.

FREDERICK A. MIDDLEBUSH.

University of Missouri.

The Los Angeles Institute of Public Affairs. The first annual sessions of the Los Angeles Institute of Public Affairs were held at the Southern Branch of the University of California from July 6 to 10, 1926. The Institute was designed both as an integral part of the regular summer session of the Southern Branch and as a series of meetings to which the general public was invited. A committee of members of the political science department, under the chairmanship of Professor Charles G. Haines, was in charge. The program of the Institute included round table conferences every morning and afternoon and lectures every evening. Certain phases of the following general subjects were treated: traffic and transit, city planning, the administration of metropolitan areas, Chinese problems, and criminal justice.

The session on traffic and transit was presided over by Dr. Miller McClintock, director of the Albert Russel Erskine Bureau of Traffic Research and author of the city traffic ordinance at present in operation in the city of Los Angeles. Among the topics discussed at this session were city traffic problems—with particular reference to the motor

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vehicle traffic conditions in Los Angeles—and the proposed uniform traffic ordinances for southern California.

At the sessions on city planning it was predicted, among other things, that within ten years modern cities will have planning commissions empowered to pass on the appearance and safety of every building erected within city limits. The need for strict zoning of residence, business, and industrial areas was stressed. The organization and activity of community art juries were described, and the artistic and aesthetic results achieved by certain community art juries now in existence in various parts of the United States were noted. The "menace of great cities," in terms of the curtailment of the amenities of life and of the conditions which make for physical and moral community health, safety, and civic beauty, was pointed out by Professor Leonard S. Smith, of the University of Wisconsin, and the English garden city was brought forward by him as a suggested remedy.

Mr. C. A. Dykstra, director of the bureau of personnel of the Los Angeles city department of water and power, and chairman of the sessions on the administration of metropolitan areas, suggested that a new type of political unit in cities is in the making—one which may come to be known as the "region." The activities of the regional planning commission, the development of unified highway systems, recreational centers, the functional study of local problems for the purpose of relieving the whole community of duplicating and conflicting agencies, the centralization of assessing and revenue collecting functions, "satellite cities," and the mechanistic elements involved in the reorganization of metropolitan areas were among the subjects dealt with at these sessions.

The sessions on Chinese problems were under the general supervision of Professor Malbone W. Graham. The particular subjects considered included Chinese law, the problem of extraterritoriality, political and constitutional development, Asiatic culture, and the international relations of China. Dr. Frank E. Hinckley, of the University of California, traced the progress of law in China, and Dr. Graham described the course of diplomatic relations between China and Soviet Russia between 1917 and 1926. A large part of the material was presented by Professor Harold S. Quigley, of the University of Minnesota. In his evening lecture on "Chinese Politics and Foreign Powers" one of the significant conclusions drawn was the following: "The suggestion has been made that China should not wait upon the powers but should abrogate her treaties by unilateral action. No friend of China would

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endorse such a suggestion. The excitement attendant upon such arbitrary action would be likely to produce outrages and thus to justify intervention, if that result did not follow automatically. . . . . The pedestrian route of gradual evolution, encouraged and aided by the treaty powers, is the wiser course in view of China's domestic problems and of her position in the world."

The discussions at both of the round table conferences devoted to criminal justice were led by Professor Roscoe Pound, dean of the Harvard Law School, who also delivered two evening lectures on the subject. The contribution of Dean Pound attracted a great deal of attention throughout the state and particularly among the members of the Los Angeles Bar Association. One reason for the interest of the public in this section was the fact that a California state commission, headed by a local attorney, Major Walter K. Tuller, has been working for some time on plans for the revision of the code of criminal procedure now in force in the courts of California. At the round table conferences certain recommendations contemplated by this commission were presented and discussed.

Dean Pound insisted upon the necessity of bringing scientific study and research to bear upon the problems of criminal justice. He asserted that the weakness of the administration of criminal justice, to which attention is being directed on all sides, may be attributed in large part to difficulties arising from the change from a pioneer, rural, agricultural society to an urban, industrial society. In the effort to meet these difficulties too much emphasis is placed on legislative tinkering with the machinery for administering justice and with the procedure devised for courts and judges. Any program of reform must distinguish: (1) certain inherent difficulties in the administration of criminal justice; (2) certain difficulties which are peculiarly American, growing out of social, political, and legal institutions in this country; and (3) local difficulties of a particular time and place.

In his addresses at meetings of the members of the Los Angeles Bar Association, Dean Pound stressed the importance of the contribution of lawyers toward securing better judicial machinery and developing more simplified and effective methods of procedure. The most impressive meeting in connection with the Institute was the Friday evening dinner given by the Bar Association in honor of Dean Pound. On this occasion Dean Pound spoke on "The Law of the Land," and gave an account of the permanent and enduring elements in the evolution of American law.

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The contributions made by the lecturers and the keen interest in the sessions shown both by university students and the general public have given substantial encouragement for the continuance of the Institute. Plans are already being made for a similar meeting next summer.

ORDEAN ROCKEY.

University of California, Southern Branch.

An Experiment in the Stimulation of Voting. In the fall of 1924 an attempt was made in selected districts in the city of Chicago to measure the effect of a non-partisan mail canvass to get out the vote. This experiment was a continuation of the study of non-voting begun in Chicago in connection with the mayoralty election of 1923. The basis of the non-voting study was the collection of six thousand personal interviews. The reasons for not voting given by the persons interviewed were classified and tabulated so as to bring out the relation between typical reasons and the situations resulting in non-voting. A survey of persons who failed to vote in the presidential election of 1924 showed that the distribution of causes of non-voting in the previous study was fairly accurate. The experiment in the stimulation of voting was an attempt to test the causes of non-voting in an objective fashion.

In order to set up this experiment it was necessary to keep constant, within reasonable limits, all the factors that enter into the electoral process except the particular stimuli which were to be tested. The factors known to have some relation to non-voting are: sex, the dramatic quality of the election, the convenience of the voting system, mobility, foreign birth, and the nature of the local party organization. The method of random sampling was used to control these factors during the testing of the particular stimuli used in the experiment.

A thorough canvass was made of six thousand adult citizens living in twelve selected districts in the city. Special efforts were made to list all the eligible voters living in these areas. The second step in the experiment was the division of the citizens in each of the districts canvassed into two groups, one of which was to be stimulated while the other was not. The assumption was made that if a larger proportion of the stimulated citizens registered and voted than of the non-stimulated citizens, the particular stimuli used had had some effect. Since the stimulated and non-stimulated citizens were selected from the same precincts, there was no reason to suppose that the strength of the local party organizations would vary much as between the two groups. Furthermore, the percentage distributions of the stimulated and non-

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stimulated by sex, color, country of birth, length of residence in the district, rent paid, knowledge of government, and schooling were practically the same. It can therefore be said that as far as possible these variables were kept constant during the experiment.

After the experimental and control groups had been selected the next step was to determine the method to be followed in stimulating voting. After some deliberation, it was decided to use individual non-partisan appeals sent through the mails. Inasmuch as the previous study of non-voting had shown that the bulk of the non-voters were not registered, emphasis was placed upon increasing registration. The final step in the experiment was the ascertainment of the actual voting response of the six thousand citizens interviewed. After checking carefully the records in the election commissioners' office, a re-canvass was made of all non-voters so as to be sure that none of the citizens who had moved would be counted as non-voters.

The first card sent out was a factual notice regarding the necessity of registration before the presidential election. While most of the cards were printed in English, there were also Polish, Czech, and Italian versions of the notice. Forty-two per cent of the three thousand citizens who received it registered, as compared with thirty-three per cent of the twenty-seven hundred citizens interviewed who did not receive it. The spread of nine per cent between the registration response of the stimulated and non-stimulated citizens is a fairly accurate measurement of the value of mailing a factual notice regarding registration. The second notice, in two different forms, was sent to those who had been subjected to stimulation and who did not register on the first day of registration. Fifty-six per cent of the seventeen hundred citizens receiving one of these notices, as compared to forty-seven per cent of the seventeen hundred and seventy citizens who did not receive it, registered on the second day of registration. One of the second notices sent out was a post card like the first one, while the other was a cartoon notice picturing the non-voter as a slacker. While the two notices had about the same influence in stimulating registration, the cartoon notice was slightly more effective than the factual notice among the women. The cumulative effect of the mail canvass is shown by the fact that seventy-five per cent of the stimulated citizens registered, as compared with sixty-five per cent of the non-stimulated.

In connection with the Chicago aldermanic election of February 24, 1925, a cartoon notice picturing the honest but apathetic citizen as the friend of the corrupt politician was sent to all the stimulated citizens

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that had registered the previous fall. Fifty-seven per cent of the registered voters who received this notice actually voted as compared with forty-seven per cent of the citizens who did not receive it. At each stage of the election process, and at different elections, the non-partisan mail canvass to get out the vote had a positive stimulating effect upon the voting response of the citizens interviewed.

The spread between the voting response of the stimulated and non-stimulated citizens was not the same in all of the twelve districts studied. The variations in the effectiveness of the non-partisan mail canvass to get out the vote can be explained for the most part in terms of concomitant variations in the strength of the local party organizations. In general, the notices had the least effect where there were strong local party organizations and the greatest where the local party organizations were weakest.

In three of the districts studied, from fifteen to twenty per cent more of the stimulated citizens registered and voted than of the non-stimulated. In all three of these precincts the voting response of the non-stimulated citizens fell below the average of the entire group studied. The non-voters in these districts were largely citizens who could not find out the details of registration and voting through the medium of the newspapers because of their inability to read the English language. It appeared that a personal notification regarding election matters had a tremendous influence upon them.

Another interesting tabulation made was that showing the percentage of citizens voting, classified according to party preferences. This tabulation showed that the Democratic organization in the districts studied was more efficient than the other party organizations in getting its members to vote. Of the non-stimulated citizens, seventy-three per cent of those known to be Democrats voted on November 4, 1924, while only sixty-two per cent of those known to be Republicans voted. The mail canvass conducted by the University had a greater stimulating effect upon the potential Republican voters than upon the potential Democratic voters. Of the potential Democratic voters who received the registration notice, seventy-five per cent voted—an increase of two per cent over the voting response of the non-stimulated Democrats—while seventy per cent of the potential Republicans who received the registration notices voted—an increase of eight per cent over the voting response of the non-stimulated. An even higher differential between the voting response of the stimulated and non-stimulated was found among the potential La Follette voters (a differential of forty per cent),

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but the size of the sample was so small that definite conclusions cannot be drawn from the figures.

The results of the experiment were then analyzed by citizenship status, country of birth, term of residence in the district, and economic status. It was shown that the mail canvass to get out the vote was just as effective among the foreign-born as among the native-born, and also that there was no great variation in the voting response of the citizens classified by country of birth. However, the native-born colored women and the women born in Italy were slightly more responsive to the notices than some of the other groups studied. The reason for this is the lack of civic organizations among these women, such as the League of Women Voters, which is strong among the native white women. The get-out-the-vote notices brought the highest returns among the new residents of the city, largely because without such notification many of them would have been non-voters. The citizens who had lived in their particular election district for less than ten years had a much poorer voting record than the citizens who had been residents of their local community for ten years or more. The experiment showed that it was possible to bring out a larger proportion of the newer residents by the simple device of notification. Of the citizens who had lived in their districts for less than ten years, fifty-nine per cent of the non-stimulated and seventy-two per cent of the stimulated registered, whereas of those who had lived in their districts for more than ten years, seventy-one per cent of the non-stimulated and seventy-six per cent of the stimulated registered. The voting response of the stimulated and non-stimulated by rent paid showed that the better the quarters the citizen lives in, the more apt he is to vote in presidential elections, and that a non-partisan get-out-the-vote mail canvass accentuates this tendency.

From the standpoint of controlling non-voting, the relative voting response of the educated and the uneducated is of considerable interest. The experiment showed that ordinarily more than half of those who cannot read and write English fail to vote. However, the illiterates, when notified regarding the details of the voting process, responded in nearly as large numbers as the literates. In other words, the non-partisan get-out-the-vote canvass had great influence upon the negroes and the foreign-born citizens who could not read English. The citizens who can read English and who are accustomed to receiving mail do not need to be reminded in a personal fashion regarding the mechanics of registration and voting.

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The analysis of the voting response of the stimulated and non-stimulated citizens classified according to years in school showed that the more schooling the individual had the more likely he was to register and vote. On the other hand, it was also demonstrated that the more schooling the person had received in this country the less likely he was to be affected by a non-partisan get-out-the-vote mail canvass. There was a differential of eleven per cent between the voting response of the stimulated and non-stimulated citizens who had received less than eight years of school, and a differential of less than one per cent between the voting response of the stimulated and non-stimulated citizens who were college graduates. In other words, the mail canvass counteracted variations in the voting response produced by differences in education. The negroes and the foreign-born whites who had had no schooling were much more influenced by the non-partisan get-out-the-vote canvass than persons who had had some schooling either in this country or abroad.

The voting response of the stimulated and non-stimulated citizens according to the score attained on a simple test regarding American political institutions showed that persons who could answer most of the questions were usually regular voters and did not need to be informed about the voting process. On the other hand, those who could answer few or none of the questions on American government were the non-voters, a surprising number of whom responded to the non-partisan appeals. The significance of this part of the experiment is that persons with some knowledge of politics and government are much more apt to vote of their own accord than those with little or no knowledge of government.

Certain inferences and conclusions seem to be warranted by the examination of the results obtained in the experiment. First, it is possible by the method of random sampling to measure the success of an unofficial non-partisan mail canvass to get out the vote. The same technique might be used to measure the influence of other methods of stimulating interest in elections. Second, a complete notification of all adult citizens regarding the time and place of registration and elections will secure a more complete listing of all persons qualified and anxious to vote than is obtained at present. Such a notification would be a simple matter in a city like Boston where there is an annual police canvass of all adult persons. Third, a complete notification of all the registered voters regarding the conditions and issues to be voted upon would

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increase the proportion of registrants that vote in any election. There are several states where such notification is now required by law.

Finally, the experiments showed that knowledge of English, formal schooling, and familiarity with the simplest features of American political institutions are all factors which greatly influence the extent of popular participation in elections. A system of education reaching all adult illiterates would be a great step toward the permanent solution of the problem of non-voting. Too much emphasis cannot be placed upon the value of education as a method of stimulating a sustained interest in voting. The present experiment was largely educational, and the results produced can be traced to the confidence which the information imparted gave to certain persons who had been timid regarding the election process.

HAROLD F. GOSNELL.

University of Chicago.

Invalid Ballots Under the Hare System of Proportional Representation. One of the most widespread objections to the Hare system of proportional representation is its complexity. A Chinese puzzle seems simpler to the casual observer, and the man in the street is likely to conclude that such a method of voting has no value, because he will not take the time to understand it. Even those who have studied it closely often express doubts as to its feasibility for general elections. On the one hand, it requires the voter to express his choices among the candidates in a totally unfamiliar manner, and on the other, it imposes on the election officers a very special duty of being not only honest but accurate. The complexity of the count is probably the greater difficulty of the two. But with the rapid development of the technique of statistical compilation it seems probable that this will soon present no serious obstacle to the widespread use of the system.

The method of voting contemplated under proportional representation requires that the voters be converted from their traditional habits of expressing preferences by cross marks to the somewhat more exact method of expressing choices by means of numerals. If there is any real danger that the voter will be so confused that he will be unable to give an effective expression of his wishes, it would certainly show itself in a large percentage of invalid ballots. Unfortunately, the records of election statistics are woefully lacking on this point. Until proportional representation has once been adopted, little attention is paid to the number of ballots rejected, and if statistics are kept at all they are rarely

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published. Even in those cities which have changed to the Hare system, the results have frequently been left unpublished, or, at best, published in inaccessible journals or newspapers.

An effort has been made in Table I to bring together data on this point for proportional-representation cities in the United States and Canada.[1] It will be noted that the experience of these cities in the matter of spoiled ballots has been far from conclusive. The percentage of spoiled ballots varied from 1.7 in the Winnipeg provincial election of June, 1920, to more than 20 in the Boulder, Col., municipal election of 1917. In general, the cities of Canada have a better record than those of the United States.

A number of reasons can be assigned for these differences in the proportion of ballots which could not be counted. The intelligence and literacy of the voters and the vigor of the educational campaign before the election are probably the most important factors. There seems to be some relation, likewise, between the percentage of votes spoiled and the length of experience of the community with proportional representation, the strictness of the election board in ruling out certain types of ballots, and the peculiar provisions of the local election law. In some cases it would appear that the number of invalid ballots varied with the size of the vote or the lack of interest in the issues involved. With so many variable factors to take into account, it would be misleading to compare one city with another.

Nor is it entirely fair to compare the number of invalid ballots in a single city before and after the introduction of the Hare system. Any change in the electoral machinery is likely to cause confusion at first. Furthermore, proportional representation votes are invariably counted centrally or semi-centrally. This makes possible adequate supervision and expert counters, neither of which are possible in the ordinary majority election. The large number of invalid ballots rejected whenever a recount is made under close supervision indicates that this may be an important element in the situation.

In spite of these difficulties of comparison, the experience of Cincinnati in the 1925 election, with regard to the number and kinds of invalid ballots, is very significant. Although the system was new, the vote large, the election laws relatively strict, and the task of the voter complicated

[1] This table has been compiled from "Local Impressions on P. R. in American Cities," *Proportional Representation Review*, April, 1924, 60–85. For supplementary information I am indebted to Mr. George H. Hallett, Jr., of the Proportional Representation League.

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TABLE I
INVALIDITY OF PROPORTIONAL REPRESENTATION BALLOTS IN AMERICAN CITIES

City	Election	Total Ballots	Invalid Ballots	Per cent Invalid
United States				
Ashtabula, O.	1915	3,334	362	10.8
	1917	3,438	262	7.6
	1919	3,294	445	13.5
	1921	5,154	156	3.0
	1923	5,196	178	3.4
	1925	4,781	237	5.0
Boulder, Col.	1917	859	177	20.6
	1919	1,165	275	23.6
	1921	838	73	8.7
	1923	1,995	378	18.9
	1925	3,049	608	19.9
Kalamazoo, Mich.	1918	4,461	157	3.5
	1919	5,997	273	4.6
Sacramento, Calif.	1921	12,607	305	2.4
West Hartford, Conn.	1921	1,679	59	3.5
	1922	1,681	78	4.6
Cleveland, O.	1923	114,613	8,767	7.7
	1925	108,167	8,518	7.9
Cincinnati, O.	1925	124,091	4,361	3.5
Canada				
Calgary, Alta.	1917	5,367	178	3.3
	1918	7,069	643	9.1
	1919	7,041	575	7.8
	1920	8,461	541	6.4
	1921	9,505	409	4.3
	1922	13,483	476	3.5
	1923	11,093	271	2.4
	1925	10,445	237	2.8
Winnipeg, Man. (Provincial)	1920	48,246	819	1.7
	1922	45,078	750	1.7
(Municipal)	1920	29,640	2,077	7.0
	1925	40,210	3,127	7.8
Moose Jaw, Sask.	1921	4,062	232	5.7
	1922	3,093	186	6.0
North Battleford, Sask.	1921	712	15	2.1
	1922	637	28	4.4
	1923	857	64	7.5
Regina, Sask.	1921	4,303	162	3.8
	1922	3,812	162	4.3
	1923	4,292	146	3.4
	1924	6,173	263	4.3

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TABLE I (Continued)

City	Election	Total Ballots	Invalid Ballots	Per cent Invalid
Canada (continued)				
West Vancouver, B. C.	1921	303	10	3.3
	1922	558	27	4.8
	1924	547	11	2.0
Vancouver, B. C.	1921	6,310	172	2.7
	1922	11,140	803	7.2
	1922	10,913	741	6.8
South Vancouver, B. C.	1922	2,000	141	7.1
	1923	2,960	246	8.3
	1924	3,953	278	7.0
Victoria, B. C.	1922	4,155	154	3.7
Port Coquitlam, B. C.	1921	221	4	1.8
St. James, Man.	1923	2,212	50	2.3
Saskatoon, Sask.	1921	4,883	278	5.7
	1922	3,364	136	4.0
	1923	4,447	204	4.6
	1924	2,448	68	2.8
	1925	3,147	95	3.0
Edmonton, Alb.	1923	12,955	1,100	8.5
	1924	9,952	462	4.6
Total, United States	....	406,399	25,669	6.34
Total, Canada	....	350,407	16,341	4.66
GRAND TOTAL	....	756,806	42,010	5.55

by the fact that he was presented with six other ballots to be marked with an "x" at the same time that he was asked to vote by choices, only 3.51 per cent of the papers cast were invalid or blank. Even if all of the ballots classed as ineffective up to the last count be added to those illegally marked, the per cent would still be less than five and one-half (5.44). The exact figures are given in Table II.

This low percentage can hardly be attributed to the peculiar features of the Cincinnati electoral system. The Ohio election law seems unnecessarily strict in many points, and there was some complaint that the rulings of the board of elections were unfavorable to the new scheme. The board was bi-partisan. The two Republican members were frankly hostile to the Hare system, and the two Democratic members were only benevolently tolerant of it. Nevertheless, their rulings appeared to be

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scrupulously impartial, and for the most part remarkably consistent and reasonably liberal.

TABLE II

INVALID, BLANK, AND INEFFECTIVE BALLOTS

Kind of Ballot	Number	Per cent
Total of all ballots cast	124,091	100.00
Blank ballots	894	.72
Invalid on first count	3,467	2.79
Total invalid and blank	4,361	3.51
Ineffective, 2d to 33d count	2,402	1.93
Total invalid, blank, ineffective	6,763	5.44
Ineffective, final count	9,562	7.69
Grand total of ballots not used	16,325	13.13

The decision of the board of elections on the ballots sent them by the tellers as "doubtful or questioned" is shown in detail in Table III. Altogether, 5,025 went through their hands, 13.6 per cent of which were declared void. The bulk of questioned ballots (4,379) were sent to the board during the first unofficial sorting of first choices and were acted on by them on Thursday and Friday, November 5 and 6. The remainder were ballots which had been passed over as valid during this first sorting and were questioned during the stamping and numbering of the first choice ballots of each candidate. The board acted on these on Saturday and Sunday, November 7 and 8. For convenience, the two groups are designated in Table III under the captions "unofficial count" and "official count" respectively. The percentages in the table are percentages of the total number declared invalid or valid as the case may be.

Nearly half of the invalid ballots were marked with two or more crosses (45.3 per cent). Another important group consisted of those marked with two or more figures "1" (13.4 per cent). A third lot were invalidated by having both a cross and a figure "1" (6.5 per cent). Together, these three groups comprised two-thirds (65.2 per cent) of the ballots rejected. It seems possible that the last two groups might be greatly reduced, if not entirely eliminated, by a change in the method of presenting proportional representation to the electorate. Many organizations used the slogan "mark the ballot with figures." Somewhat better results might have been secured by stressing the necessity of marking "choices" in order of preference.

Another difficulty encountered at Cincinnati was due to the peculiar racial composition of the population. Nearly one-fourth of the people (97,823, or 24.2 per cent) were born in Germany or of German parentage.

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TABLE III[2]

RULING OF BOARD OF ELECTIONS ON INVALID AND QUESTIONED BALLOTS

Declared Invalid, Reasons	Unofficial Count		Official Count		Total	
	Number	Per cent	Number	Per cent	Number	Per cent
2 "x"s	1898	49.7	43	7.9	1941	44.6
2 "1"s	432	11.3	142	26.1	574	13.2
"x" and "1"	192	5.0	88	16.3	280	6.4
No. "1" marked	224	5.9	42	7.7	266	6.1
Ink, colored or indelible pencil	93	2.4	126	23.3	219	5.0
"Yes" or "No"	19	.5	1	.2	20	.4
Mark on line	18	.5	...	....	18	.4
"x" and "1" in same square	15	.4	...	....	15	.3
Check (√)	8	.2	1	.2	9	.2
Minus— "—"	3	.1	...	....	3	.1
Other	34	.9	88	16.3	122	2.8
Sub Total	2936	76.9	531	98.0	3467	79.5
Blank Ballots	883	23.1	11	2.0	894	20.5
TOTAL	3819	100.0	542	100.0	4361	100.0
Declared Valid, Objection						
Erasure	271	47.5	51	49.9	322	47.8
German "1"	76	13.3	14	13.5	90	13.4
"x" in place of "1"	77	13.5	3	2.9	80	11.9
Marked on both sides of names	22	3.9	11	10.6	33	4.9
"x" and "1" in same square	23	4.0	3	2.9	26	3.7
Written name	10	1.8	3	2.9	13	1.9
Figure out of box	50	8.8	1	.9	51	7.6
Other	41	7.2	17	16.4	58	8.6
TOTAL	570	100.0	103	100.0	673	100.0
Total Ballots Handled	4,379		646		5,025	
Per cent held Invalid	87.0		84.0		86.6	
Per cent held Valid	13.0		16.0		13.4	

[2] The following explanations may be useful:

"2 'x's" includes all ballots rejected because more than one name had a cross mark opposite it.

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The figure "1" in German script has a hook on it, and sometimes it is difficult to distinguish between it and a "7." This difficulty was not realized at the first sitting of the board, and probably a few ballots were thrown out erroneously on the ground that two first choices had been indicated. The error (if any) was very small, however, for after about eight hundred ballots had been passed on, the board discovered the difficulty and made a closer inspection of the ballots. This problem would probably not present itself in most other communities. In any event, an intensive educational campaign on this point would probably be of great help to the tellers.

Many of the ballots passed on were exceedingly curious and throw considerable light on the mental processes of the voters. Some were marked with Roman numerals, while others had "No" written in every box not containing a figure. Two voters numbered their ballots straight

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"2 '1's" includes all ballots rejected because more than one name had a first choice indicated opposite it.

" 'x' and '1' " includes ballots with a first choice and a cross opposite different names.

"No. '1' marked" includes ballots having numbers marked but no first choice indicated. See Exhibit I, number 19.

"Ink, colored or indelible pencil" includes all ballots rejected because not marked with the official election pencil provided by the board.

" 'Yes' or 'No' " refers to ballots containing writing indicating that the voter was in favor of or opposed to certain candidates.

"Mark on line" includes all cases where the first choice mark ("x" or "1") was on the line between candidates so that it was impossible to tell which candidate was intended.

" 'x' and '1' in same square" includes only ballots with both of these marks opposite the same candidate.

"Check (√)" includes all ballots marked with other marks than a cross, a figure, or a minus, except those having a completely illegible mark.

"Minus— '—' " includes ballots having a horizontal line in the box opposite the name.

"Other" Invalid ballots includes largely the illegible and those invalid because written on. See below.

"Erasure" did not invalidate a ballot unless it left it in such a condition that the voter's wish could not be discovered.

"German 1" is a figure "1" with a hook on it. It was found that this was easily confused with a "7". Where it was possible to distinguish between them the ballot was declared valid.

"Figure out of box" and "Marked on both sides of names" both refer to ballots on which the voter had placed numbers elsewhere than in the place regularly provided for them.

"Written name" did not invalidate the ballot even though it was written over a printed name which had been scratched out.

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down from "1" to "39." The law required these to be counted, although it was obvious that they did not represent a rational choice.

The invalid ballots show even more erratic tendencies. Some voters wrote "o.k." or "opposition" opposite certain names; some drew lines through all but nine names; one voter wrote out "first," "second," etc.; a number underlined nine names. One voter numbered the names on his ballot "1," "2," "3," "1," "2," "3," etc.; another even went so far as to number the paragraphs of the directions at the head of the ballot. These actions may have been due to illiteracy, but the voter who marked "7," "10," "13," "19," etc., evidently thought the Hare system was an intelligence puzzle to test his mathematical ability. These figures were placed after the seventh, tenth, thirteenth, nineteenth names, etc., indicating that the voter had laboriously counted the place from the top which his favorites occupied and numbered them accordingly.

Such ballots, however, were the exception rather than the rule. It seems a fair conclusion that less than one ballot in forty was mismarked because the voter misunderstood the new method of voting.[3] In other words, the educational campaign had been nearly ninety-eight per cent effective, a truly remarkable record.

This showing is explained in part by the character of the population of the city. There is no large foreign element of *recent* immigrants. For the most part, the people are substantial, middle class, business and commercial folk who have had the advantages of good schools. The city has a very low percentage of illiteracy, whether it be compared with the average for the state, the United States, or other large cities.

Great credit is due also to the splendid campaign of education which was carried on before the election. It began more than a year before the council was to be chosen and included lectures and demonstrations before women's clubs, groups of business men, and church organizations. Both political organizations (the regular Republican organization and the City Charter Committee) made strenuous attempts to reach their supporters with the information necessary for the proper voting response. The newspapers carried a number of articles describing the new system; and during the last week of the campaign a vacant store

[3] Nearly six per cent of the ballots declared void would have been found invalid under any scheme of voting. This includes those marked in ink, colored, or indelible pencil, those with "yes" or "no" written opposite the names, and those marked with a check or minus sign. Probably part of the ballots classed as invalid for other reasons would have been rejected under the old ward plan.

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was rented in the business district where hourly demonstrations were conducted by representatives of the Proportional Representation League.

Work in the schools was by no means neglected. The public education committee of the Woman's City Club enlisted the services of Miss Leona Kamm, a public school teacher, who helped draw up an excellent brochure on the new charter and the Hare system. This pamphlet was so clearly and simply written that it could be used to teach children in the fifth to eighth grades how to mark the ballots. Lessons based on this material were introduced as part of the regular curriculum of the schools. The result was particularly gratifying, both to the advocates of proportional representation and to the people of Cincinnati. While a few districts seem to have been missed in this educational campaign, the efforts bore fruit in almost every precinct. Perhaps not the least of the benefits of the campaign was the reawakening of civic interest which it produced.

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BOOK REVIEWS

EDITED BY A. C. HANFORD
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Devolution in Great Britain. By WAN-HSUAN CHIAO. Columbia University Studies in History, Economics and Public Law, Vol. CXXIV, No. 1. (New York: Longmans, Green and Company. 1926. Pp. 287.)

This very interesting book is the first full-length study of its subject, and it deserves careful consideration by all students of representative institutions. It is now some sixty years since the idea of home rule all round was seriously mooted in England; and the growing pressure on parliamentary time has given the subject an interest and significance which are undeniable. Dr. Chiao is an enthusiastic adherent of the scheme of devolving legislative powers upon separate parliaments for England, Scotland, and Wales. He hopes, thereby, to revive the authority of the imperial parliament, and to give it ampler time for the discussion of its more urgent business.

Criticism of his book should, I think, lay emphasis upon the lack of institutional insight it displays. Dr. Chiao does not seem to realize that no plan so far submitted has stood the test of discussion. That of Mr. Speaker Lowther, in 1920, perished of its own obvious inadequacy; that of Mr. Murray MacDonald upon the obvious impossibility of an English and an imperial parliament in London, each with its separate administration, and each, conceivably, of an entirely different political complexion. He exaggerates, I believe, the degree to which national temper in the constituent parts of Great Britain demands a national legislature; he takes too literally the assertions in debate of ardent advocates who really represent no one but themselves. He does not see how unsatisfactory would be the duplication of machinery, and how insignificant (education apart) are the problems it is proposed to entrust to the care of the new legislatures. The fact, moreover, that they would be financially controlled by an assigned revenue from the imperial legislature would at once generate friction and hamper whatever experimentalism the new system might engender. Nor does he meet the difficulty of *ultra vires* legislation. Few Englishmen would admit the wisdom of judicial control of legislative action; and such alternatives as have been proposed really amount to a veto of the imperial upon the national cabinets. This would mean not only friction, but from the

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simple fact of ministerial responsibility, discussion of imperial action in the legislature. In the homely English phrase, much of what was gained on the savings might easily be lost on the roundabouts.

It is, I think, a pity that Dr. Chiao has not sought his statistics at first-hand, but has been content mainly to quote and classify those of others; for this leaves one with the impression that he knows the theoretic argument better than the facts they are intended to meet. Mr. J. S. Henderson and I, in what are, I believe, the completest statistics upon the problem so far worked out, concluded that local affairs now occupy about one quarter of parliamentary time; but we added, what Dr. Chiao does not seem to grasp, that a scheme of devolution would not save anything like this amount since (1) the financial relations would involve discussion of policy and (2) disagreements would have the same effect. Our view was that a saving of eight per cent of parliamentary time might be effected; and we concluded that the grant (on the German model) of wider powers to existing local authorities would easily meet this need without the creation of a vast and expensive new structure.

Dr. Chiao, one may urge, is really discussing the theory of a twentieth-century legislature in terms of the ideal set up at the height of the laissez-faire period. Things like the closure and the guillotine, which he views with regret, are really necessities if debate is not to be pursued to the point of nauseation. Much of the expenditure voted (as he notes with horror) without discussion is so voted essentially because it lies within an agreed field of action where opposition is unnecessary and futile. Nor does he deal with the effects of comparable schemes of structure elsewhere. Is he so enamoured of state and provincial legislatures in the United States and Canada as to believe that they would benefit Great Britain? Is he sure that the effect on Congress of the removal from its field of a great area of action has necessarily been of benefit, say as regards labor legislation, to the United States as a whole? Has he sought to measure the relative value of devolution as such against alternatives such as that advocated by Mr. F. W. Jowett or the scheme of committees I have myself urged elsewhere?

If his book goes, as I hope it will go, into a second edition, I think Dr. Chiao should, out of a sheer regard for justice, unknight Mr. Isaac Butt. Had the latter allowed the great fountain of honor to play upon him, he would not have been leader of the Irish party.

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International Anarchy, 1904–1914. By G. Lowes Dickinson. (New York: The Century Company. 1926. Pp. xii, 505.)

This book might better have been entitled "The Diplomatic Background of the World War"—for such it is—had not another author who has essayed somewhat the same task already appropriated the title. Mr. Dickinson naturally felt obliged to find a different one. It is what the Germans would call a *diplomatische vorgeschichte* of the war. It reviews in succession the principal diplomatic events which created the situation that made the Great War an inevitable consequence. By a liberal interpretation of a word, the author characterizes the period covered as one of international "anarchy," which it obviously was not in the usual sense of the term. But it was, as he demonstrates, an era of international "chicanery," "imperialism," "armament competition," and "territorial aggression"—a period of increasing distrust, suspicion, and fear, among the nations of Europe; of kaleidoscopic alliances, ententes, and shifting friendships, a given country being an enemy today and an ally tomorrow; of diplomatic intrigue and hypocrisy; of international stealing and brigandage; of secret treaties and of treaty violations, and, above all, of increasing armaments the effect of which was to irritate and provoke war. The treaties which were concluded during this period, says the author, were all made ostensibly with a view to preserving the peace, and some of the statesmen, perhaps all of them, who made them may have desired that the peace should be kept. But in fact they laid the basis for the Great War because, among armed powers pursuing objects that can only be achieved by war and united by treaties directed against one another, peace is impossible.

The purpose of the author, we are told, was to analyze the causes that led to the Great War. Historians, as he points out, have often confused the fundamental conditions which make war inevitable with the immediate or superficial occasions out of which it arises, and have directed their efforts to explaining the latter as though they were the real causes. Underneath the occasions or immediate incidents lies the general situation which is the real cause, and it is to the understanding of this situation that the author devotes his chief attention. After tracing in a fair and dispassionate, but absolutely frank, spirit the development of the situation in Europe prior to 1914, on the basis of the wealth of historical material which has recently been made available, Mr. Dickinson comes to the conclusion, the correctness of which every one now readily admits, that the war did not come through the act of a single

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power but was the result of a general situation which had been created by a succession of events: alliances, alignments, secret treaties, rivalries, outright aggressions, and the steady building up of powerful armaments. The murder at Sarajevo was merely "the Niagara in the fateful stream" down which the nations of Europe had been rapidly drifting for the past ten years. The idea that the assassination of an Austrian archduke was the cause of the catastrophe at which Europe had now arrived, as he clearly shows, was utterly "trivial and false."

Assessing in turn the responsibility of each of the principal participants in the tragedy, he says of Austria that her course was that which any other state similarly circumstanced and menaced would have pursued; of Russia, that Austrian domination of Serbia was as intolerable for her as the dependence of the Netherlands upon Germany would have been for Great Britain, that she wanted Constantinople and the straits, that she had a "historic mission," and that she was afflicted with the whole farrago of superstitions that dominate all states under the conditions of the "armed anarchy." As for Germany, he points out that she backed Austria for the same reason that led France to back Russia, namely the maintenance of the balance of power, and that her policy was that which any other state in her position would have adopted; of France, that she was animated partly by the hope of recovering Alsace-Lorraine and partly by the desire to preserve the balance of power; of England, that she was bound to France by military and naval commitments which, like a suction pipe, were to draw her into the war whether she would or no; and so with the others. But after all, he pertinently adds, discussion of the motives which animated this or that country or the particular interests which were involved is useless. So long as they were aligned as they were, so long as they were armed to the teeth with a view to war, pursued policies that could only be fulfilled by resort to war, made alliances in expectation of war, and conducted their relations in secret because of war, war was bound to come and the responsibility for it when it finally came rests upon all those whose policies had brought about the situation which the author has so well described.

Adverting to the treaties of peace, he asks whether they prepare the way for a safer and better world. If they do, he says, it is not because of their own provisions or because of the intentions or beliefs of statesmen, soldiers, or sailors. But it will be due to the determination of those plain men that "states shall cease to make it their principal object to steal territory and markets, shall begin to think of real people and their

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welfare, and consequently shall take seriously and develop into reality that League of Nations whose feeble and precarious existence is the only barrier against a renewal, on an incalculably more terrible and destructive scale, of the Great War of 1914." The provisions of the treaties of peace, he admits, were not all bad, yet the truth remains that they were conceived on the traditional lines aiming at the weakening of the defeated enemy and the strengthening of the victors by the appropriation of territories and by indemnities so absurdly excessive that they had to be reduced.

Unfortunately, he concludes, the terrible lessons of the war have not been learned. Europe is still armed, suspicious, and covetous, even more than before the war. But there are hopeful currents below the surface and a new world is fermenting underneath. The way to peace, he thinks, lies in the development of the League of Nations into a strong organ of international control, an association in which all states must become members. The "legal openings" for war must be closed as the lamented Geneva protocol so provided; there must be "a complete apparatus" for the peaceable settlement of all disputes; there must be arrangements for an equitable distribution of raw materials and the abandonment of protective policies; and above all there must be a general, all-round disarmament.

On the whole no keener, more profound, or more dispassionate analysis of the international situation which caused the war—which in fact rendered it inevitable—has been made. It is based upon an intensive study of the history of the period immediately antedating the outbreak of the war and upon the study of a mass of official documents and other materials recently made available. A bibliographical list of these materials is not the least of the merits of the book.

JAMES W. GARNER.

University of Illinois.

Essays on Nationalism. By CARLTON J. H. HAYES. (New York: The Macmillan Company. 1926. Pp. 279.)

Here is a serious, thoughtful discussion of phenomena strongly developed in the history of the last century, written with a nice sense of scholarship and with due regard not only for the facts which the author has collected and interpreted but for the legitimate deductions of others. If the author holds his own opinions firmly, he still has regard for those of others; if he sees a concept as dangerous on the one side, he does not despair of using it to advantage on the other.

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With Professor Hayes' characterization of nationalism few people will disagree in general, though many may wish to modify it slightly, making it seem perhaps somewhat less artificial. But the distinction he makes between nation, nationality, and nationalism is clear and vital. Possibly the author over-emphasizes the looseness of the linguistic bond uniting the Swiss, the Belgians, and even the varied peoples in the British Empire. The place of historical traditions and cultures is well defined. Especially sane and sensible is the author's insistence that "what any group thinks itself to be is quite as significant as what it really is" (p. 19). But Joan of Arc need not be entirely denationalized.

His story of the "Rise of Nationalism" (Chap. II) will be accepted with little comment. The chapter (III) on the "Propagation of Nationalism" will arouse more question, and also that on "Nationalism as a Religion"; while his studies of nationalism's connection with international war, militarism, and intolerance will perhaps stir up still more. What is said about the Jews and their real connection with nationalism is food for sober reflection. His exposé of the Nordic myth is not only readable and interesting but salutary.

We doubt whether J. A. Cramb, Hugo Münsterberg, and A. T. Mahan can be regarded as those *most* competent to speak in behalf of nationalism. Their words (p. 199) seem to refer to quite a different sort of nationalism than the normal. That there may be conflict between the hierarchy of international religions and the officials of a national state is quite evident. Obvious answers, however, to accusations against the nationalists may suggest themselves.

As to the Czechoslovak "campaign of intolerance and persecution" (p. 209) against the Catholic organization, the latter word surely, the former probably, is too strong. [The prefix Honorable to the name of Thomas (*G.*) Masaryk is superficial.] Jan Hus, by the way, was something besides a theologian. Actually, *is* a "kulturkampf" impending in Jugoslavia? In Transylvania religious intolerance is not so palpable (p. 212). If the Protestants were not Magyars and Saxons, the trouble would be small.

Surely in the last essay Professor Hayes has atoned for any sins of those preceding. If he has overdrawn any picture before, now he corrects the coloring and the perspective; if he has over-emphasized an evil side he redresses the balance handsomely and to the satisfaction of most critics. Few will deny the need for some mitigation of the abuses of what he has been describing, something that exists whether we call it nationalism or not. Few will object to his facts, and hardly more will

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dissent materially from his conclusions or regard his suggestions as unworthy of serious consideration. Professor Hayes' internationalism does violence to nothing now held dear by the average citizen of a national state. It might well make a man a better citizen of that national state if he were a convert to this kind of internationalism.

The bibliographical note at the end is more than a mere list; it guides as well as suggests.

ARTHUR I. ANDREWS.

University of Maryland.

The Presidential Primary. BY LOUISE OVERACKER. (New York: The Macmillan Company. 1926. Pp. ix, 308.)

This volume is the third of the "Parties and Practical Politics Series" edited by Professor Charles E. Merriam, and is the elaboration of the author's doctoral thesis. It may almost, without exaggeration, be denominated a definitive study of the presidential primary—certainly so with respect to some aspects of the subject such as the history of legislation and the accumulation of statistical records. The thoughtful reader will discover, when he lays the study aside, that the important questions of fact which are left unanswered by Dr. Overacker are really very few; it is a thorough and comprehensive piece of work, albeit her research has brought to light nothing particularly unexpected by other students of this political institution; nor in any large degree are her proposals of reform—well-considered and indicative of acquaintance with the incidents and ramifications of the problem—strikingly unique. Practical limitations control here.

Unsatisfied with a combing of the extant material on primaries, statistics, legislative proceedings, and committee hearings, the author comments: "The ideal method for studying the operation of such laws is for the trained observer to live through the campaigns and gather his data as the experiment is performed before his eyes, as does the pure scientist in the laboratory; only when the social sciences take advantage of the experiments being worked out around them can they hope to develop anything approaching a scientific method" (p. 6). In lieu of this method, obviously impossible after the event, the author has "followed the reflection of the operation of the laws in the daily press." Newspaper material has been very extensively and effectively used.

Chapters are devoted to the time of the presidential primary; the methods of proposing candidates; the control of the action of the

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conventions; the form of the ballot and its importance (a phase of the subject elsewhere too much neglected); interest and expense; further control through state action; a national presidential primary; and other aspects of the subject.

After showing that interest, as measured by the size of the vote cast, was little more than half as great in 1916, 1920, and 1924 as in 1912, the author concludes that "real contests always result in popular interest and a large vote, and the real problem is whether the presidential primary tends to bring out real contests within the party" (p. 146). That "the problem of the use of money in presidential primary campaigns can best be approached through the regulation of contributions rather than expenditures" (p. 162) may be true, but the reviewer hardly finds its truth adequately demonstrated, and he somewhat questions the implication of the statement that "if the use of large sums of money does not change votes, it is a foolish expenditure but not dangerous" (p. 157). It would seem that practical politicians either believe money will change votes, or else they have displayed phenomenal histrionic powers in this connection. Motives are not lacking for the latter course. However, the expenditure of $500,000 will not win an election over the expenditure of $100,000 any more certainly than an investment of $500,000 will return a greater sum than an investment of $100,000. For one thing, something depends on the person's knowledge of investments. A classification of the expenditures, by object, of the aspirants in 1920 would have been interesting and valuable.

The author tacitly approves the principle of the primary and finds the cause of most criticism not in the nature of the system itself but in its limitation to a few states (p. 180). Conceding that the choice of the primary and the choice of the convention were the same in only three out of eight cases (and even then not necessarily because of the primary), she believes the primary has often affected the course of national politics, has eliminated the contesting delegation, has provided an orderly way of settling contests over party leadership in the states, and has rendered the delegates elected by it more responsive to popular wishes (p. 170), so that the states possessing the primary in effective form will hardly discard it (p. 205). The primary will probably remain as it is until some repetition of 1912 (p. 185). Almost insurmountable obstacles lie in the path of a national primary law, which could only follow a constitutional amendment (p. 201), although there is a practical chance for a beneficial extension of the state system through a uniform primary day, uniform provisions for filing candidacies, and uniform

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methods of controlling delegates (p. 183). A very few rather inconsequential inconsistencies of statement appear.

The text is followed by a digest of the various state laws, numerous impressive statistical tables, existing and proposed ballot forms, an extensive bibliography, and a detailed index.

Unfortunately, the relation between political research and practical politics is such that almost certain neglect by state legislatures awaits Dr. Overacker's unquestioned conclusions regarding the modifications necessary to an improved functioning of the presidential primary.

RALPH S. BOOTS.

University of Pittsburgh.

Political Changes in Massachusetts, 1824–1848. A Study of Liberal Movements in Politics. BY ARTHUR B. DARLING. (New Haven: Yale University Press. 1925. Pp. xii, 392.)

It is an interesting coincidence that this volume and the concluding volume of James Truslow Adams' distinguished "History of New England" should appear at so nearly the same time. The two admirably supplement each other. Mr. Adams begins at an earlier date and treats New England as a whole. He excludes from his story, however, that phase of New England's development to which Dr. Darling devotes his entire book. But both are concerned with different aspects of the process by which New England and its individual peculiarities became submerged in the growth of national sentiment. To say that the old currents of life and thought which were distinctive of New England have been altogether obliterated would even today be an extreme statement. Much of the old wine can be found in new bottles, and it has not entirely lost its flavor even though greatly diluted. The Puritan aristocracy, like the Romans who submitted to the Germanic invaders, went far toward subduing its conquerors.

The period with which Dr. Darling deals is that in which the politically submerged elements in Massachusetts sought to give reality to the popular shibboleths that had been used in the War for Independence and to gain for themselves the political privileges which the leaders of the Revolution had proclaimed to be the rights of man. It was a class struggle for the deposition of the government of the rich and the well-born, and for a social, economic, and political readjustment. At the close of the War of 1812, Massachusetts was still predominantly an agricultural and seafaring community, but the new lands of the west

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soon began to attract the New England farmer, and the fortunes amassed in maritime commerce were devoted to the development of textile manufactures which transformed Massachusetts into an industrial state. Men were drawn away from the farm and fishing communities into factory towns where wages were higher and conditions of life more attractive. Immigration from Ireland introduced a new social and religious element which produced profound effects. These economic and social changes were reflected in party politics. As an industrial community, Massachusetts turned from free trade to protection, and in that movement Daniel Webster followed his constituents. In the rebellion against the dominance of the so-called privileged classes, Andrew Jackson and his party, who were anathema to the adherents of the old order, obtained the support of more than one-third of the voters of Massachusetts—a fact sufficiently indicative of the discontent which prevailed and of the strength of the forces which were not only shifting the center of political power in Massachusetts but carrying the state into the currents that were affecting the country as a whole.

Dr. Darling's volume is a detailed history of the process by which the political system of Massachusetts was transformed and the isolation of the state was terminated. It is based upon an amazing amount of research among manuscripts, both public and private, and pamphlets, newspapers, and documents. The materials are well arranged. The author has constructed a clear narrative of an intricate story and is particularly skillful in his use of excerpts from his sources. His judgments are moderate and seem well founded. All in all, he is to be congratulated upon a highly creditable achievement.

LAWRENCE B. EVANS.

Washington, D. C.

Municipal Government in the United States. By THOMAS HARRISON REED. (New York: The Century Company. 1926. Pp. vii, 378.)

The Government of American Cities. By WILLIAM BENNETT MUNRO. Fourth edition. (New York: The Macmillan Company. 1926. Pp. viii, 491.)

Documents Illustrative of American Municipal Government. By THOMAS HARRISON REED AND PAUL WEBBINK. (New York: The Century Company. 1926. Pp. xiii, 603.)

The continuing importance and widespread interest in the problems of municipal government in the United States are evidenced by the

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number of new books on the subject which are being published and announced. Most of these, like the three here reviewed, are intended primarily for use in college and university courses, where municipal government usually takes second place after the introductory course in government. In these respects conditions have greatly changed in the twenty-five years since the first attempt at a comprehensive treatment of this subject appeared.

All three of these works deal particularly with city government in the United States, and in this respect show a trend away from the former practice of comparative studies, with emphasis on conditions in European countries. This is probably due to the improvement in American cities and the increasing complexity of the problems in this country. To the reviewer, however, there still seems some advantage in the broader outlook over municipal problems in other countries.

The two text-books not only cover the same general field, but deal for the most part with the same topics: municipal history, the relations of city and state, city politics, municipal organization, and some general problems of administration. Professor Reed gives more attention to the historical development of municipal institutions in this country, the home rule charter system, the recent experiments in proportional representation, and the larger cities of the Middle West. Professor Munro has extensively revised and added to this edition, not only from his two-volume work, but also new material, notably the chapters on urban public opinion and the criteria of good city government. Both books are well written, and student and teacher alike will find it worth while to supplement the one with the other.

Some phases of the subject, however, do not seem adequately covered by either of these books. There is little about the considerable development of state administrative supervision in this country. Not much is said about the smaller cities, even those with which the authors should be most familiar. Professor Munro's index does not include Cambridge or Pasadena; Professor Reed does not mention Ann Arbor, and has only a footnote reference to San José.

Neither author discusses fully the problem of the relations of the city government to other local authorities. Both approach this in chapters on greater metropolitan cities. Professor Reed deals with the three leading cities of Europe and New York, with some account of special districts; but does not go into other cases of partial city-county consolidation. Professor Munro takes up the four American cities of New York, Chicago, Philadelphia, and Boston, but confines himself to the

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city governments without considering the integration of the metropolitan areas. The general problem, too, is one which concerns, not only other large cities, but even smaller places, where the multiplication of overlapping authorities is a serious matter.

The collection of documents, published in the same series with Professor Reed's book, will be useful material to supplement the textbook. The reviewer believes that original documents of this kind should be included in case books in the law of municipal corporations. For the undergraduate student, this collection contains too much of some kinds of material and not enough of others. A carefully selected group of cases and more sample municipal ordinances would be better than some of the extracts from constitutions, statutes, and charters.

JOHN A. FAIRLIE.

University of Illinois.

The United States as a Neighbor. By SIR ROBERT FALCONER. (Cambridge, England: The University Press. 1925. Pp. 259.)

The Unreformed Senate of Canada. By ROBERT A. MACKAY. (New York: Oxford University Press. 1926. Pp. xvi, 284.)

Charles Buller and Responsible Government. By E. M. WRONG. (New York: Oxford University Press. 1926. Pp. viii, 352.)

Last year the trustees of the Watson Foundation invited the president of the University of Toronto to deliver the annual course of lectures at various English universities on American history and institutions. The experiment proved particularly interesting inasmuch as Sir Robert Falconer selected his subject from the field of Canadian-American relations and elected to treat his topic from a distinctly Canadian point of view.

The lectures, which are essentially popular in character, are intended to afford the public a general view of some of the chief political and social factors in the United States which have materially influenced the course of Canadian life and institutions. The speaker is manifestly not especially conversant with the details of American history, but when he comes to discuss the more analytical phases of his subject he proves himself to be a keen critic and observer of our national psychology and *kultur*. His treatment of our economic life and educational systems is most sympathetic as well as fairminded and discriminating. Especially valuable is his criticism of the weakness and intolerance of American democracy.

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Thanks to her new national status and to her inheritance of both English and American traditions, Canada is destined, he believes, to play an important rôle in Anglo-American relations as mediator and arbitrator between the two great nations. It is somewhat doubtful, however, if many of the Canadian public have yet risen to this high statesmanlike concept, if one can judge from the utterances of many of the politicians and papers during the recent electoral contest. But in any case the author has made many interesting suggestions for the promotion of a better understanding on both sides of the border, and it is sincerely to be hoped that this little volume will enjoy a wide circulation on this side of the line, for its own sake and also as a corrective of some of our national complacency.

Dr. Mackay's volume on the Canadian Senate makes a valuable contribution not only to our knowledge of the actual workings of the Canadian parliament but also to the problem of the organization and functioning of second chambers. The study is particularly significant in that it emphasizes the peculiar difficulties which arise in attempting to reconcile the principle of cabinet government with the tenets of federalism and the revising functions of an upper chamber.

The Canadian Senate has usually been regarded as the weakest and most inefficient of second chambers, but the author almost succeeds in rehabilitating its reputation among critical and scientific observers, even if not in the minds of the Canadian public. It is a pity, however, that the author has not seen fit to carry his careful analysis beyond the mere formal debates in the Senate in order to discover if possible, something of the racial, religious, and economic factors which have influenced the conduct of the members of that body. This phase of the subject has been largely neglected, notwithstanding the fact that many of the attacks upon the Senate have been based upon the close connection of many of its members with the chief business interests of the country.

In conclusion the author attempts to outline a plan for reforming the upper house, but it is to be feared that this somewhat academic scheme will go the way of many similar proposals if perchance it falls into the hands of old-time politicians.

Students of British colonial history have long been familiar with the name of Buller in connection with the group of ardent young radicals who were largely responsible for bringing about the momentous colonial reforms in the middle of the nineteenth century. Most of the other leaders of this school have already received due consideration, but

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Buller unfortunately has been largely neglected. This deficiency has now been supplied by Mr. Wrong's brief but admirable study of Buller's political career, to which he has added a still more valuable interpretive chapter in which he analyzes the purpose and significance of the program of colonial autonomy in the minds of Durham and his associates. This study was intended by the author to serve as an introduction to the republication in more accessible form of Buller's monograph on "Responsible Government for the Colonies" and Wakefield's article on "Sir Charles Metcalf in Canada." With the reprinting of these two documents, practically all the important constitutional material dealing with Canada during this period is now readily available for students of colonial history and government. The way has been prepared for an authoritative study of the liberal imperialist movement of that day. Mr. Wrong's promising beginning leads us to hope that he may undertake this more important task, since his early training in Canada and his subsequent experience at Oxford peculiarly fit him to understand and interpret both the colonial and imperial points of view.

C. D. Allin.

University of Minnesota.

The United States and Mexico. By J. Fred Rippy. (New York: Alfred A. Knopf. 1926. Pp. xii, 401.)

The Diplomatic and Commercial Relations of the United States and Chile, 1820–1914. By William Roderick Sherman. (Boston: Richard G. Badger. 1926. Pp. 224.)

It is significant of the growing interest in international relations that two books have been published within the current year giving a more or less comprehensive history of the diplomatic relations of the United States with two other countries, both of them Latin-American. In the first of these volumes Professor Rippy covers the diplomatic relations of the United States and Mexico from the independence of the latter to 1924. The treatment is inevitably chronological in a measure, but the author has skillfully divided the book into chapters which cover very definite subjects, six of them dealing with different phases of the period 1848–1853. Only one chapter was necessary to develop Buchanan's "manifest destiny" policy (a policy not peculiar to him), but it is done in a very satisfactory way. The same is true of Wilson's vastly different policy. One chapter deals with some of the recent dangers of American intervention, following "peaceful penetration," and a final one gives a

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summary and some conclusions. Two maps, a very extensive bibliography, and an index add to the usefulness of the volume.

The book is crowded with facts from cover to cover, and these facts will give the casual reader who got his ideas of the history of our relations with Mexico from the followers of Jay, Schouler, and other members of the "conspiracy" school a rude awakening. Instead of finding that the Mexican war was a diabolical conspiracy of the slaveholders he will discover that the movements which culminated in the annexations of 1845–1853 were part and parcel of a general imperialistic urge which has characterized the nation, not simply one section of it, almost from the time of its birth. Perhaps it was fortunate for Mexico that slavery stood in the way of further expansion in the fifties, when such an anti-slavery man as Eli Thayer declared that "we *must* have territory" and prophesied that we would one day extend to the isthmus. Also, it was fortunate for her in the days of Fall and Doheny that President Wilson blocked the game for going in to "clean up" Mexico.

As just indicated, the book is crowded with facts; rarely and only in a moderate way has the author made any display of emotion. His facts often condemn the action of the United States, but Professor Rippy has not closed his eyes to facts uncomplimentary to Mexico, as the older emotionalists did.

Professor Rippy's distinctive contribution is in laying bare the plotting and scheming of 1848–1860 and in showing that Diaz was not altogether hand in glove with the exploiters of his country. In bringing together these and other facts the author has gathered from a wide range of material, much of it unpublished.

The book has many excellent points, but one is surprised at the small amount of space devoted to the period down to 1848. Possibly this is due to the fact that this period has already been covered reasonably well, but this hardly justifies the mention of J. Q. Adams only once and that not in connection with any attempt to buy Texas. In the "Projects of the Confederates" mention might have been made of the fruitless mission of Polignac back to his native France at the request of Governor Allen, of Louisiana, which had its connections with the Confederate negotiations with Napoleon and Maximilian in regard to the Mexican adventure. While the pacific penetration of big business in Mexico is treated fairly well, the account of its relations to diplomacy is a little disappointing. The page of errata did not catch quite all the errors, such as "arose" (144) and "give" (266).

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In the second book of the year tracing our diplomatic history Dr. Sherman deals with Chilean-American diplomacy from 1821 to 1914. Seven chapters divide the book into as many "periods," beginning with the "Revolutionary Period" and closing with "The Period from 1892 to the World War." A few of these periods are somewhat natural, others more or less arbitrary, looking as if they had been adopted for convenience in dividing into chapters after the chronological treatment had been decided upon. Judging from the ever-recurring claims, "The Period of Claims Prosecutions" might have been used to cover the whole field.

The chronological method is followed with few interruptions. The reader is told that Mr. A was appointed minister to Chile, that he took up his residence on a certain date, that certain problems arose during his stay (never omitting claims, if his stay was of any length), that he departed this Chilean diplomatic life on a certain date and was succeeded by Mr. B, and so on to Mr. Z.

The chronological method has the advantage of allowing the author to bring in anything he sees fit to notice. The shortcomings of the method are too well known for recital here. In this case the reader finds it a little difficult to follow some of the incidents to the final issue, for example, a claim extending over thirty or forty years. And the difficulty is increased by the absence of an index.

Students of our diplomatic history will find this a useful and, in some parts, an interesting book. It illuminates the background of the pending dispute over Tacna-Arica and, in language which but for the lack of space I should quote, reveals the rather inglorious part played by the United States in the earlier days of the trouble (141 ff.).

The book bears many of the earmarks of a doctor's thesis, but lacks one essential of any book intended for scholars, i.e., an index. The bibliography and citations, which are incorporated in the text in parentheses, cover a considerable range of materials.

DAVID Y. THOMAS.

University of Arkansas.

Public Authorities and Legal Liability. By GLEESON E. ROBINSON. (London: University of London Press. 1925. Pp. cx, 286.)

This work by Dr. Robinson, prepared before the outbreak of the late war, has a more timely interest for American as well as English readers than when it was written. With the recent development of the sphere

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of public administration, the effect of the earlier theories of public immunity from actions by private persons, a privilege which daily grows more extensive in fact if not "larger" in law, becomes more apparent, and the judicial control of the ever-increasing governmental agencies becomes a problem of the first importance. We have here a scholarly study of the methods by which the English courts have endeavored to solve this problem, with a result in many ways more successful than that achieved by our own courts.

Naturally the subject of the liability of public agencies to actions in tort assumes the first place in the author's treatise. It would be out of place to enter upon a technical discussion of this question in a brief review or to attempt an extended comparison of the English and American cases. It is sufficient to say that the present work is the most complete and authoritative analysis of the English decisions that has yet appeared. It may be well to point out, however, that beginning in the early part of the nineteenth century with the same historical background, the English courts have avoided the pit-fall of making the test of liability of subordinate governmental agencies to turn upon the "public" or "private" nature of the activity complained of and have refused to extend to them the immunity of the crown in any case of "misfeasance," the definition of which has been gradually extended so as to cover, with the one exception of the care of highways, practically every instance in which the sub-governmental authority undertakes to act. So that outside of the great governmental departments, the administration of justice, and the police, in the strict construction of that term, the municipalities and other subordinate incorporated governmental agencies are held practically to the same degree of liability as private persons for damages resulting from the invasion of the rights of the subject. Such an anomaly as the exemption of a municipality from liability for damages resulting from negligence because its servants at the time happen to be engaged in operating a fire department, a school, a park, or other so-called "public," as distinguished from "private," functions is in England an unknown principle of decision.

This formulation of more fortunate and salutary principles of municipal liability may be ascribed partly to the fact that this phase of the law was of later development in England than in this country. It was not till about the middle of the nineteenth century that it became necessary in England to create subordinate administrative bodies to perform many of the public functions of the state; so that, when the Mersey Docks

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cases came before the House of Lords in 1864 and 1866, it was already apparent that great inconvenience would result from the application under changed conditions of the doctrine of the exemption of the crown laid down in some of the earlier cases. The broad rule of construction of statutes conferring governmental duties upon subordinate corporations laid down by Blackburn in the Mersey Docks case "that, in the absence of something showing a contrary intention, the Legislature intends the body, the creature of the statute, shall have the same duties and that its funds shall be rendered subject to the same liabilities as the general law would impose upon a private person doing the same things" marked the parting of the ways from the earlier decisions based upon an erroneous dictum of Lord Kenyon in the famous case of Russell v. The Men of Devon, which already had become the precedent upon which the American doctrine of non-liability in tort of municipalities when engaged in discharging "public" or "governmental" functions was founded. The fact that the highest courts of many of our states are today disturbed by the unsatisfactory results of the application of this classic American principle, as may be seen from a reading of Professor Borchard's exhaustive studies of this subject recently published in the *Yale Law Review*, suggests how valuable the present work may prove in assisting us to solve similar problems that confront us at home.

The introductory chapter on "Remedies Against the Crown," by Professor Morgan of the University of London, taking up many questions of administrative control from the point of view of political science, is in itself a valuable contribution from one who speaks from a broad knowledge not only of English but of Continental and American government as well. While the immediate question of the statutory extension of the immunity of governmental agencies from judicial control is doubtless more serious in England than in this country, his consideration of the relation of the executive and judicial departments is especially pertinent to some of the problems of our federal administration.

Dr. Robinson's technique also calls for a passing word. His analysis of the subject tells for clearness, he covers thoroughly the principal cases in his text and omits the citation of all unnecessary authorities; in fact, the work is not cumbered by a single footnote of any kind. A complete table of cases referred to and discussed and a comprehensive index are indicative of the author's courteous recognition of the assistance to which every reader of such a technical work feels himself entitled.

C. W. Tooke.

Georgetown Law School.

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Cases on Foreign and Interstate Commerce. By CHARLES WILLIS NEEDHAM. (Chicago: T. H. Flood and Co. 1925. Pp. xiii, 1526.)

This volume is a significant example of the process of differentiation which is going on in the study of law. Not only do the schools make provision for the study of all the chief heads with which a practicing lawyer may be called upon to deal, but important subdivisions begin to demand individual attention. In the case of constitutional law it is natural that the commerce clause should be the first to receive such recognition. Historically, it is the foundation of our present constitutional system. It was the desperate condition of our commerce, both foreign and domestic, which started the chain of events leading up to the formation and adoption of the Constitution. The inability of the government under the Confederation either to enforce the commercial treaties into which it had entered or to prevent the imposition by the states of burdens upon interstate commerce made it clear that full and exclusive power over interstate and foreign commerce must be vested in the national government.

The judicial history of the commerce clause presents an interesting development. Vital as it was known to be to the life of the country, it was not until 1824, thirty-five years after its adoption, that the Supreme Court was called upon to interpret it. It is now invoked in litigation more often than any other clause of the Constitution. The early decisions dealt chiefly with the extent to which it operated as a restraint upon the states, while the Court is now more concerned with the extent of the authority which it has vested in Congress. Beginning as a means of preventing hostile legislation by the states, it has come to be a charter granting to Congress the power to take affirmative action for the promotion of commerce as an instrument of public welfare. In the comprehensive words of Chief Justice Taft, "To regulate in the sense intended is to foster, protect and control the commerce with appropriate regard to the welfare of those who are immediately concerned, as well as the public at large, and to promote its growth and insure its safety."

This book is not the product of a scholar's cloister, but is the fruit of the learned editor's many years of labor as solicitor for the Interstate Commerce Commission. It is a book primarily for lawyers, present and prospective. In accordance with the fundamental principle of constitutional construction that the instrument must be read as a unit, the first chapter, entitled "Introductory Study of the Fundamental Law," places the commerce clause in its proper setting, and deals with the

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nature of the government of the United States, its sovereignty, and the rules for the interpretation of the Constitution. Then follow ten chapters dealing with the definition of the words "commerce" and "regulate," the subjects of federal regulation, the power of Congress over waterways and over acts lessening the volume of interstate or foreign commerce, the supremacy of the federal power, the powers of the states over interstate commerce, the federal regulation of intrastate rates, the beginning and termination of federal control, and the means and methods of regulation. The cases are taken for the most part from the decisions of the United States Supreme Court, but there are a few from inferior federal courts and from state courts.

The present volume is to be followed by another dealing with the powers of the Interstate Commerce Commission and with practice before it. In these two volumes students of constitutional law and commerce lawyers will find an invaluable collection of judicial authority upon a clause of the Constitution which daily increases in importance.

LAWRENCE B. EVANS.

Washington, D. C.

The Social Control of Business. By JOHN MAURICE CLARK. (Chicago: The University of Chicago Press. 1926. Pp. xviii, 483.)

Professor Clark's book is a most useful contribution to the literature on the relation of society to business. This problem is now getting the attention its importance deserves, and the wholesome effect of much study and discussion is significantly reflected in the policies of self-government developed by business itself and based upon business practices codes fixing standards of conduct that in some ways are in advance of the regulatory policies of the government.

The book is divided into three parts: "Underlying Conceptions and Conditions," "The General Instruments of Control," and "Protecting Consumers Against Exploitation." Part I discusses the nature, development, and purposes of social control. An interesting chapter is devoted to our relation to machines, pointing out the ways in which the mechanical revolution has increased our interdependence and the resulting need for control. Part II deals with the legal or formal methods of control, involving an analysis of the nature of law, rights, and liberties, and their relation to the problem. Competition as a factor of control is discussed in one chapter. Two chapters are devoted to informal controls, as manifested largely through professional and business codes of ethics. Part III concentrates on the problems of price control, public utilities,

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and trusts, introduced by a survey of the historical background and underlying conditions out of which these problems grew.

This is essentially a discussion of individualistic economy. Individualism is private industry under social control. The author finds much in the individualistic régime to criticize, but does not regard its defects as irremediable. What, he asks, are the purposes which our existing social machinery favors? The answer is that "It is adapted not so much to directing us toward goals as away from evils; not so much to telling us what we shall do as to what we shall avoid. It is adapted to dealing with definite and tangible subject-matter such as products, prices, accidents, industrial diseases, or stoppages of work; but even with such matters it deals fumblingly, groping for standards and confused by false issues and all the demagoguery with which the term 'politics' has become synonymous. The more important long-run interests of the people are left to work out their own salvation; they are virtually unplanted by-products of the industrial process" (pp. 81–82). The remedy, however, is not to be found in substitute systems of control, that is, state socialism, communism, syndicalism, guild socialism, or anarchism (Chap. XV), nor in public ownership of industry (Chap. XXII), but rather in an organization for social control that is applied "in industry itself on the frontier where new policies are being worked out. As it is now, our political machinery waits until the industrial machinery has acted, and then does its feeble and belated regulating after the most decisive issues have already been settled" (p. 65).

The book is well written; there is scarcely a dull page in the entire work. The author's attitude toward his subject is discriminatingly critical, his judgments are balanced and judicious. However, it is sometimes difficult to know when he is merely analyzing, giving arguments pro and con, and when stating his own views and conclusions. It further appears to the reviewer that the materials are not as logically arranged as they might have been. The several types of control could have been more clearly differentiated; as it is, there is some repetition and not a little cross-fire. Some readers will question the author's premise that the existing system of industrial control is in fact individualistic; many individualists feel that it is rather a modern refinement of the restrictive policies that preceded the rise of individualism in the middle of the eighteenth century.

RINEHART J. SWENSON.

New York University.

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Religion and the Rise of Capitalism. By R. H. Tawney. (New York: Harcourt, Brace and Company. 1926. Pp. xii, 337.)

This is one of the important books of the year. It cannot be put aside as a book likely to interest only the theologian or the economist. Essentially it is a book about politics. Nowhere would it be easy to find a more adequate refutation of that comfortable cant which, during the last two centuries, has assumed the possibility of separating the province of religion from the sphere of business and of social problems. It is the merit of St. Augustine and of M. Combes, of Gregory VII and of Señor Calles, that they recognize this fact. Why this belief arose and how violently it contradicts the preceding theories of Christian moralists, patristic, scholastic, and protestant, Mr.Tawney's book helps to explain. This book does for English readers what the excellent little treatise of Sommerlad and, more indirectly, the monumental work of Troeltsch have done in German, namely, indicate how emphatic, clear-cut and, from a modern standpoint, revolutionary has been the Christian social theory. This theory, by its very conservatism, has conserved the ideas and ideals of a pre-capitalistic society. Combining the prejudices of the early peasant and servile church, the later land-owning church, and the Greek philosophic contempt for the "mob of the wealthy," the formal exponents of this theory condemned the man who exacted interest to excommunication while living and to be rejected from holy ground at death.

Mr. Tawney's book, however, contains more than an exposition of the orthodox moral dogma of the early and middle period of Christianity, upon which the Vatican ceased nominally to insist only in the last century. He goes on to explain how this doctrine of the canon law, which identified unlimited profit with ungodly greed, and thrift when the poor had need, in Jerome's words, with theft, was appealed to by Luther, who had burned the *corpus juris canonici*, was weakened by Calvin and, despite its affirmation by such divines as Latimer and Baxter, was abandoned at the close of the seventeenth century. This *volte face* of respectable morality is in part to be explained by one of those great mechanical changes which, unobserved, revolutionizes our ethical principles. The improvement of communications had again made the world one of rapid movement, of commerce, of business loans. The brotherly world of the village and the monastery had disappeared amid the lamentations of divines, as the world of mutual acquaintance of the city-state had disappeared amid the vaticinations of philosophers.

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Not only a change of civilization, however, accounted for the change of outlook. The underlying belief of Judaism that the years of a man's life and the number of his sheep were a sign vouchsafed from on high that one was accounted righteous by the Lord, was received with welcome by the Old Testament-studying Puritan and took the sting out of the New Testament condemnation of care for mundane affairs. Mr. Tawney, with his accustomed scholarliness of manner and lucidity of style, has rendered a great service by explaining these origins of the dour reconciliation of godliness and gain (later more mildly phrased by Mr. Smiles), whose exponents observed that business incompetence was no virtue, but failed to observe that, if the religious man is to abandon his contempt for the gains of this world, he must also abandon his individualistic disdain for the society of this world and its communal obligations.

The Puritan, in the name of the hereafter, set his face against the pomp of the Church, pilgrim to the next world but regulating with power the affairs of this, which insisted that the acceptance of the faith involved a social manner of life of which the habits were to be regulated by the Church. Within a generation the secular economist had arisen. But by destroying the power of the churches—now sects clamoring at the portico of the Heavenly Kingdom not on earth—the Puritan involuntarily strengthened the hands of Caesar, custodian of order and morals in this "kingdom of our mortality." Whoever wishes to study an example of what Hegel calls "the cunning of the Idea" cannot do better than to turn to Mr. Tawney's book for an object lesson in the ironic logic of history.

G. E. G. Catlin.

Cornell University.

Eugenics and Politics. By Ferdinand Canning Scott Schiller. (Boston: Houghton Mifflin Company. 1926. Pp. 218.)

This book is a series of essays by a eugenist designed "to arouse interest in the subject, and a conviction of its vital import, and to prepare a receptive and appreciative audience for the biological expert if, and when, he descends from the Sinai of Science with the New Commandments which are to ensure our salvation by eugenics" (Preface). The volume is both prophetic and messianic. Its postulates are that the human race is rapidly going backward, as the upper classes are not maintaining their rate of increase, and the lower classes are propagating more than their proportionate share (p. 15); that the cause of this

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deterioration is civilization—"it is the duty of the eugenist . . . . to accuse Civilization of insidious treason against human kind" (p. 81); and that without some effort to save itself society must "sink so low that no amount of tradition and inherited knowledge can keep alive the congenital idiots of which it will eventually be composed" (p. 92). The remedy is the eugenical state (Chap. II), though exactly what this is the author does not make clear.

Among the bright spots of this volume are a dialogue which takes place between the author and Plato in a dream (Chap. V), and an essay on "The Ruin of Rome and Its Lessons for Us" (Chap. VI). The author is interesting when he announces that "cannibalism becomes a social danger only when the taste for human flesh it generates preys upon the tribe itself, and the warriors improvidently devour their women and children" (p. 12); that "the chief effects . . . . of endeavors to improve social conditions by our present methods (poor relief, unemployment doles, etc.)" is to "promote the survival of the unfit and the defective" (p. 15); that there is good in inheritance taxes because they operate "to knit more closely together those families of which the members can trust each other's morals sufficiently to combine to frustrate the law" (p. 28); that "it is quite conceivable that in a couple hundred years' time not only the Japanese and the Chinese but also the Negro may be the superior in sheer intellect of the degenerate European" (p. 30); that the "London business man who prefers Sunday golf to a sermon is not aware that he is thereby contributing to the survival of the caddy as against the preacher" (p. 41). The hero of the volume is the great chief Luba who "when he dies, will probably be the progenitor of 1000 children" (p. 89).

The author of the volume is Fellow and Senior Tutor of Corpus Christi College, Oxford, England.

HARRY BARTH.

University of Oklahoma.

Benjamin Disraeli: The Romance of a Great Career: 1804–1881. THE RT. HON. SIR EDWARD CLARKE, K. C. (New York: The Macmillan Company. 1926. Pp. ix, 308.)

The author's prejudices in writing this life of Disraeli are frankly revealed in his preface. Every boy, he says, "will be the better for having before him this great example of industry, courage, and patience. Every Conservative will find his political faith refreshed and strengthened by having at hand the golden sayings of the greatest of Conservative

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leaders." Such feelings are perhaps natural in an author who, after starting upon a brilliant career at the bar, became a Conservative member of Parliament under Disraeli's own leadership and later solicitor-general under Lord Salisbury. The point of view does not, however, cause Sir Edward Clarke to refrain from painting Disraeli's weaknesses as well as his abilities. Indeed this biography is unquestionably the fairest, most interesting, most valuable short life of Disraeli yet written. The student who wants an elaborate and day by day account of Disraeli must always go to the innumerable and heavy pages of Monypenny and Buckle. But the reader who can be satisfied more briefly may well be pleased with Sir Edward Clarke's achievement.

For the political scientist, Sir Edward Clarke has presented a very human picture of the career of a successful party leader. He shows Disraeli as the clever, ambitious young man, lacking any great amount of influence or wealth, and indeed under a racial handicap, who rises by dint of what Sir Edward Clarke calls "industry, courage, and patience" to the leadership of a proud kingdom and a prouder party. He reveals Disraeli's great weaknesses: he was a chancellor of the exchequer who had sometimes been in danger of arrest for debt, he was a foreign minister whose policies were taken from the pages of his own romantic novels. But he reveals equally Disraeli's great source of strength: his ability to govern men and women. The Queen, other ladies titled and untitled, young men new to Parliament and experienced parliamentarians, all followed the man of unbending will but flattering tongue. The House of Commons yielded to him in mass, for he could also sway men collectively. That Disraeli did have definite and farsighted policies, this book makes clear by well-selected quotations from his speeches. But Sir Edward is right in laying emphasis upon the man, for it was the man and not the policies that led the Conservative party and ruled England.

There can be no question of the timeliness of a new biography of a man who was the founder, if not of the Conservative party of Mr. Stanley Baldwin, at least of the Tory party of Sir Austen Chamberlain, Colonel Amery, and the average member of that class whom Disraeli called "the gentlemen of England." E. P. CHASE.

Lafayette College.

Jefferson. By ALBERT JAY NOCK. (New York: Harcourt, Brace and Company. 1926. Pp. 340.)

In the life and writings of Thomas Jefferson, as in the Bible, one can see almost anything. One recent writer sees Jefferson as a consummate

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but high-minded politician; another regards him as an ideal liberal statesman; Mr. Nock views him as an ubiquitous mind, a reluctant politician, a somewhat accidental statesman. The first harmonization of these and many other partial and conflicting interpretations remains to be achieved; the most baffling great figure of our early history is still something of an enigma.

Mr. Nock's book does not claim to be a comprehensive biography, or even an adequate summary. He terms it a study in conduct and character. Speaking of Jefferson's activities in France, he says, "The true business of life, in Europe as in America, lay outside the routine of politics and diplomacy." To him, the real Jefferson is the "man of science," ill at ease in law and politics, the experimental farmer and inventor of mechanical devices, the enthusiastic architect and landscape gardener. By stressing the multifarious intellectual activities of this amazingly versatile mind, Mr. Nock has served the public, and will perhaps recall even the professional historian to a better balance and proportion.

It may be seriously questioned, however, whether he has caught the true spirit of the man. We hope not, anyway. Jefferson here appears too mathematical, inordinately industrious, calculating, circumspect, and impenetrable, to be lovable. That he commanded the affection as well as the admiration of his large band of disciples is indubitable. Mr. Nock has not solved the riddle of his charm.

Nor is Mr. Nock convincing in his description of Jefferson as a reluctant participator in politics, leader of the democratic movement in the United States chiefly through force of circumstance, and really more at home in the vice-presidency than in any other office. Jefferson was not as passive and indifferent as that. Perhaps Mr. Nock has read back into him something of the disillusionment of our day, forgetting that he began with, and long retained, the passionate political hopefulness of eighteenth-century liberals. We are quite willing to go with Mr. Nock part of the way in interpreting Jefferson's statecraft in terms of agrarianism, but not to divorce him entirely from doctrinaire democracy and theoretical state rights and strict constructionism. It is hardly adequate to say that in politics Jefferson never wore "any other character than that of a farmer." Here also Mr. Nock views him through twentieth-century spectacles, and reads into him an economic class-consciousness and a disregard for political theory more characteristic of our day than his.

DUMAS MALONE.

University of Virginia.

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The Political Education of Woodrow Wilson. By JAMES KERNEY. (New York: The Century Company. 1926. Pp. 503.)

This volume is another contribution to the fund of "inside" information about the leading figures in the World War period. The author was one of those rare persons who remained on friendly terms with Woodrow Wilson from the beginning of his political career to the end. He played his part as a newspaper observer and adviser on publicity for Wilson rather than as an actor, as did Colonel House, Secretary Lansing, and Ambassador Page, and he has told nothing which might better remain untold until time gives us more perspective. The best part of the book is that which describes Wilson's rise to the governorship in New Jersey and the preliminaries of the election of 1912, when the author was in closer touch with Wilson than after he became president.

So long as the author tells his story, he tells it in an interesting newspaper style and it is well worth reading, but when he tries to philosophize neither his philosophy nor the style is good. Here and there are touches of real wit and humor which make the reader wish for more. While the book does not add much to what was already known about the high points in Wilson's political career, it does help to understand the human side of the man and to throw light upon some of the methods which he used with such far-reaching effects.

GEORGE H. MCCAFFREY.

New York City.

The Social and Economic History of the Roman Empire. By M. ROSTOVTSEFF. (New York: Oxford University Press. 1926. Pp. xxv, 695.)

The appearance of this book is an event. It is unquestionably the most solid and also the most brilliant contribution which has ever been made toward the interpretation of the Roman Empire; it is unique likewise in its approach to the subject. For the first time a single scholar, superbly equipped for the task, has enriched us with a connected account of the social and economic forces which evolved and maintained the most successful imperial government the world has ever seen. To do this he had to dominate the field, to be equally conversant with the sources which have filtered down to us on parchment, on papyrus, and on stone, and to control the multifarious archaeological realia which proffer us their mute yet eloquent testimony. The resultant survey, drawn by a master's hand, is of equal importance to students of political science, of economics, and of history.

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The author starts with a brilliant summary of the civil wars and of their causes, and then sketches Augustus' reconstruction. Here he emphasizes the altered conditions which shaped Augustus' policy, and underscores its national Roman character. Augustus won the allegiance of the municipal bourgeoisie, both in Rome and in the provinces. They supplied his administrative officials; from them the army was recruited. Hence the emperors favored the spread of new municipal centers as increasing the power and the numbers of those who supported them. Speaking economically, this period is marked by a great industrial growth; large-scale trade in raw products begins throughout the Mediterranean. In the days of Augustus this centers in Italy, but later on in the century this commerce tends to become decentralized to the provinces, where new industrial foci arise, especially in Gaul. The episode of Flavian rule brought to light a sharp popular protest among the intelligentsia against the military and autocratic rule of the dynasty, but under Nerva and Trajan the philosophic opposition became reconciled with the imperial power.

The succeeding three chapters (V–VII) deal primarily with the urbanization of the empire, its causes, its development, and its results. One inevitably compares these pages with Mommsen's classic work on the Roman provinces: how much our knowledge has broadened and deepened in forty years is truly extraordinary. We wonder, however, if the urbanization of the empire was necessarily a baneful phenomenon, and whether the creation of new cities meant in truth "the creation of new hives of drones" (p. 333). Were the cities as unproductive as M. Rostovtseff thinks? They seem not to have become so until the market reached a saturation point and new categories of consumers no longer appeared. The collapse of urban life came about, as the author shows, through the exploitational policy of the government on the one hand and the pressure of outside forces on the other. These latter were the barbarians and the army, now composed of villagers. M. Rostovtseff interprets the troubles of the third century as a revolt of the village against the town, in which the municipalities were completely bankrupted. The victory of the army undermined its own position, however, and Diocletian grouped things together as he found them into a haphazard structure whose rigidity paralyzed private initiative, though it prolonged the life of the state. The account of Diocletian and his work is somewhat scanty, and in certain regards, we think, does the reconstructor an injustice. These strictures, though, are but minor matters.

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Critics will no doubt find other points to attack, but they cannot ignore this book. The plates contain rich material illustrative of the points raised in the text. In the voluminous notes a staggering mass of sources and bibliography has been gathered together: not a few of the longer annotations are in reality tabloid articles, explaining, illustrating, or defending the theses sustained in the body of the text. Typographically the book is a model; we can only regret that its high cost must perforce restrict the number of potential possessors.

R. P. Blake.

Harvard University.

Council and Courts in Anglo-Norman England. By George Burton Adams. (New Haven: Yale University Press. 1926. Pp. xxv, 403.)

Students of English constitutional history are already familiar with six of the ten chapters of this book, dealing with procedure in the feudal *curia regis*, the local king's court under William I, private jurisdiction, and the origin of common law and equity and of the common law courts. These have appeared separately during the years since the publication of the author's "Origin of the English Constitution" in 1912, and are printed here without extensive changes except in the chapter on private jurisdiction, which is much expanded. The chapters on the age of the Conquest and of Henry I, Magna Carta, and the thirteenth century are new. The last is avowedly tentative, but the "warning of age" prompted its inclusion lest no "other opportunity will be afforded me to state conclusions that I believe are warranted in the way in which I should like to put them." These studies as now published together make an original and important interpretation of the beginnings of the judiciary—a book of great learning and a storehouse of references to sources and literature, Continental as well as English. General constitutional history is touched on only incidentally.

Of well-known controversial subjects falling in this field, it appears to the reviewer that the author has substantiated against Liebermann the point that the post-Conquest king's court was institutionally derived from the Continent; against Holdsworth, that there was essential continuity of English equity after the Conquest; against Maitland, that the Court of Common Pleas differed in origin from the other common-law courts, was inferior to them, and had no special connection with the primitive King's Bench; against the idea of Bolland and others that "bills in eyre" were practically new in Edward I's reign; and against

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Pollard's narrow interpretation of the "liberties" of Magna Carta as baronial franchises and (incidentally) his idea that borough representatives were summoned to early parliaments on tenurial grounds.

As to Adams's leading interpretation of English constitutional history, which underlies this and all other work he did after 1901, that limited monarchy sprang from the contract principle of continental feudalism and is the central fact in the genesis of the constitution, students of the subject have long made up their minds, and nothing is presented now that will change them. But it seems appropriate to remark in connection with this his final work that he has been notable among English-speaking students of the constitution in his Continental approach; with a profound knowledge of Continental feudalism, he crossed the Channel with the Conqueror and has been free from the damaging Anglo-Saxon bias. His achievement is an honor to American scholarship.

ALBERT B. WHITE.

University of Minnesota.

BRIEFER NOTICES

Local Government in Many Lands, by G. Montagu Harris (P. S. King and Son, pp.viii, 341), is the most useful comparative study of its nature which has appeared in recent years. The author is especially qualified to deal with this subject because as an officer of the British ministry of health he was responsible for the preparation of certain data on local government in foreign countries presented to the Royal Commission on Local Government. The countries included are France, Belgium, Holland, Italy, Spain, Denmark, Sweden, Norway, the German states, Switzerland, Austria, Czechoslovakia, Esthonia, Finland, Hungary, Poland, Roumania, Great Britain and Ireland, the British overseas dominions including India, the United States, and Japan. A more or less uniform plan for each country or state is followed. First there is an outline of the organization and functions of the local units of government; second, an account of local finances; third, central control over local authorities; fourth, a summary of the administration of certain public services such as health, education, highways, etc., and finally a conclusion in which recent tendencies are discussed. The book closes with a general summary and review in which the author considers, among other matters, certain tendencies which are found throughout the various countries, especially centralization and decentralization and financial control. He finds that the adoption of large areas of administra-

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tion for certain public services is a world-wide tendency, and states that "It is rather in the United States of America than in any other country of the world that genuine new developments in local government are taking place." The index is especially useful because it is arranged in the form of a chart with headings for each country.

Custom and Right, by the late Professor Paul Vinogradoff (Harvard University Press, pp. 109), was written largely for the purpose of showing how legal facts and ideas can be studied from the comparative point of view and to call "attention to the value of comparative investigation in the domain of historical jurisprudence." Following the methods employed in his *Outline of Historical Jurisprudence* and using the customary organization of the family and the evolution of the right of property and possession as illustrations, the author reaches the following conclusions: (1) "In order to understand the process of legal evolution one must consider its modern aspects in connection with its origins and historical changes." (2) The analysis of judicial rules must be "supplemented by synthetic principles connected with notions of value." (3) "The standards of utility, morality and justice derived from these estimates of value are not absolute and vary with the times, but every legal system has to conform in some way with standards of this kind. A marked divergence between positive law and public opinion as to right threatens society with a crisis." (4) "The evolution of property depends on the security and confidence produced by harmonizing the action of two sets of factors—the human or 'subjective' elements of first occupation, labour and personal superiority, and the objective requirements of the tasks of social coöperation."

Essai sur le Désarmament et le Pacte de La Société des Nations, by M. de Lavaelaz (Rousseau 6ie, Paris, pp. xliv, 505), is the title of a ponderous volume in the collection of the *École des Sciences Sociétés de l'Université de Lausanne*, which constitutes a sort of source-book for the study of the history of the movement for disarmament. The author modestly describes it as a "catalogue" or "index" of the opinions that have been emitted on the subject of disarmament from the beginning of the nineteenth century to the establishment of the League of Nations, of the proposals that have been made to this end, and the efforts that have been put forward at different times to bring about a reduction of armaments. The book is, however, much more than a catalogue or index: it is a summary and analysis of the whole movement; it contains a review of the literature; a discussion of the *projets* which have occupied

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the attention of various international conferences; of the draft proposals of numerous bodies which have considered the subject, such as the Interparliamentary Union; and of the deliberations of the Paris Peace Conference of 1919 relative to the matter. The chief value of the book lies in the fact that it furnishes a *tableau panoramique* of one of the great world movements which, like the Court of International Justice, began as a dream, which has steadily grown in strength, and which now seems nearer than ever on the point of realization, in part at least. It contains a preface by Professor Rougier, dean of the law faculty of Lausanne and director of the School of Social Sciences, to whose published collections it is the latest contribution. J. W. G.

Diplomatic Episodes (Longmans, Green and Co., pp. xvii, 295), by the late Professor William Carey Morey of the University of Rochester, discusses ten historical incidents "to point out the salient points at issue in each controversy, to show the mode in which diplomatic methods may be used in the interests of peace, and to suggest the way in which international diplomacy has extended to the development of certain phases of international law." The topics treated include the prelude to the Jay treaty, the case of the *Caroline*, American policy as to the law of recognition, the threatened partition of China at the close of the nineteenth century, the international status of the Suez Canal, international right of way with reference to the opening of the Panama Canal, the sale of munitions of war in its relation to the law of neutrality, British diplomacy and British colonial reform, the international policy of intervention, and the historical development of peace. Though the work contains nothing that is new, the style is lucid and readable. The discussion of the law of recognition, apropos of the Cuban revolt, suffers from a failure to distinguish sufficiently between the recognition of insurgency and the recognition of belligerency. It is stated that the claim of Colombia that Roosevelt's canal policy was strictly and technically contrary to law "scarcely needs any very serious comment"; and that "the late war may be resolved, as a matter of fact, into a conflict between the *law-breaking* and the *law-abiding* nations of the world."

Thirty-six papers presented at the twentieth annual meeting of the American Sociological Society in December, 1925, have been published under the title *The City*, in the July number of the *American Journal of Sociology* (University of Chicago Press, Vol. XXXII, No. 1, Part 2, pp. 1–248) of which Professor E. W. Burgess was the managing editor.

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It is impossible to list all of the topics and contributors, but the following will give some indication of the scope of the volume and the vast amount of information which it contains: "The Problem of Personality in the Urban Environment," by William I. Thomas; "Social Distance in the City," by Emory S. Bogardus; "A Social Philosophy of the City," by N. J. Spykman; "The Eugenics of the City," by Russell H. Johnson; "A Redefinition of 'City' in Terms of Density of Population," by Walter F. Willcox; "Some Economic Factors in the Determination of the Size of American Cities," by C. E. Gehlke; "The Statistical Relationship between Population and the City Plan," by Ernest P. Goodrich; "The Rate of Growth of Certain Classes of Cities in the United States," by J. M. Gillette; "The Scope of Human Ecology," by Roderick D. McKenzie; "The Rise of the Metropolitan Community," by N. S. B. Gras; "The Natural Areas of the City," by H. W. Zorbaugh; "The Research Resources of a Typical American City as Exemplified by the City of Buffalo," by Niles Carpenter; and "The Study of Ethnic Factors in Community Life," by B. B. Wessel. In these papers one will find the city treated, not as a municipal corporation, but as an aggregate of people or a community in which there are many diverse interests, groups, and areas, but where there is at the same time a certain economic interdependence and a sense of unity produced by various coöperative activities such as schools, churches, public health, etc. Throughout the papers one finds emphasis placed upon mobility, location, position, and grouping of population as indexes for measuring and describing social phenomena and as forces which influence the government, growth, planning, and prosperity of a city. This volume of papers contains a wealth of suggestive material which the student of municipal government cannot afford to overlook.

The American Revolution Considered as a Social Movement, by J. Franklin Jameson, director of the Department of Historical Research in the Carnegie Institution of Washington (Princeton University Press, pp. v, 158), makes available in print four lectures delivered at Princeton in 1925. The contents are fairly indicated by the chapter headings: "The Revolution and the Status of Persons," "The Revolution and the Law," "Industry and Commerce," "Thought and Feeling." Taken as a whole, they offer, not a comprehensive social history of the Revolution, but a series of suggestive essays illustrating both what has already been done in this field and what needs to be done before such a comprehensive history can be written. The author's plea for a more liberal approach

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to the history of the Revolution, and a larger recognition of the social, economic, and cultural developments which accompanied, and were closely related to, the political phenomena of the period, is likely to meet with general acceptance. The same thing is true of some of his generalizations; others should provoke discussion and be tested by fresh researches. In short, the book is a timely addition to the literature of the subject. It may also be recommended to laymen as distinctly readable.

E. B. G.

Stanley Baldwin, prime minister of Great Britain, has published through the Frederick A. Stokes Company a volume of addresses under the title *On England* (p. 275), comprising about forty short speeches delivered on various occasions. Only a few of the addresses are of a political nature, but the student of government will find many interesting ideas and opinions in the essays dealing with political life, truth and politics, political education, religion and politics, democracy, and the empire. The author is suspicious of the politician who is given to "literary rhetoric." "Let us remember this," he warns, "when we come to big things we do not need rhetoric. Truth . . . . is naked. She requires very little clothing. . . . . It is not necessarily the man most fluent of speech to whom we should entrust the destinies of the country." He also points out that the greatest service which the universities can render for political education is to enable the student to "judge the value of evidence." "If you can clear the mind of cant and detect the fallacy, whatever guise it may be wearing, I think you have made a long step forward in the education that every citizen in a democracy that may hope to endure must have."

Fifteen former students of Professor James Albert Woodburn have coöperated in preparing a volume of *Studies in American History* (Indiana University, pp. ix, 455) as a tribute to his long service as a teacher at Indiana University. At least four of these are of especial interest to teachers and students of government: "National Party Politics, 1837–1840," by Lawrence Hurst; "The Presidential Campaign and Election of 1840," by Walter Prichard; "The Political Balance in the Old Northwest, 1820–1860," by R. Carlyle Buley; and the "History of the Direct Primary in the State of Maine," by Orren C. Hormell. The latter article covers not only the genesis and development of the direct primary in Maine, but also the system in operation, its results, and present day opinions for and against. Professor Hormell is of the opinion that the greatest need is to bring into closer coöperation and

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coördination the party machinery and the party candidates nominated at the primaries. "A step toward a solution," he ventures, "might be to take from the hand-picked delegates in the state conventions the function of creating the party organization, and to devise a more popular method of selecting party committees and party officials."

Believing that historical writing in the United States is unsatisfactory, the executive committee of the American Historical Association appointed in 1920 a committee, whose investigations have borne fruit in four stimulating essays on *The Writing of History* (Charles Scribner's Sons, 1926, pp. xii, 139), by Jean Jules Jusserand, Wilbur Cortez Abbott, Charles W. Colby, and John Spencer Bassett. Without slighting the priceless gain to history from the development of the scientific spirit, all four writers reject the hypothesis that history must be dull in order to be scientific, and deplore the neglect of form in modern historical scholarship. Besides a penetrating analysis of the causes of this neglect, the report offers several constructive suggestions, to ensure that history shall maintain its place as a form of literature. It recommends the devotion of more time, thought, and imagination to the problems of synthesis, greater emphasis on presentation in the training of graduate students, and wider reading in well-written histories.

The Supreme Court on the Incidence and Effects of Taxation, by Margaret Spahr (pp. 270), is one of the most recent of the Smith College Studies in History. The author emphasizes the economic rather than the legal aspects of the tax decisions. Miss Spahr points out that one should not be too critical of the Supreme Court's reiteration of dubious economic doctrines, because it is bound by precedents. Also "the court is not dealing with an academic question, but is laying down principles for the guidance of legislatures and citizens. To vacillate for the sake of gradually perfecting a theory is to cause inconvenience or actual injustice. It is not necessarily advisable for the judiciary to accept the conclusions of leading economists. Although the Supreme Court discusses the incidence and effects of taxation, its tax decisions are rendered, not as economics, but as law."

In *The Democratic Way of Life* (University of Chicago Press) Thomas Vernor Smith attempts to explain and justify the ideals of fraternity, liberty, and equality, in view of present conditions. He does not settle the age-long questions with which he deals. But his plea for economic equality is well argued; his discussion of democratic, as dis-

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tinguished from aristocratic, leadership is suggestive; and there are other stimulating sections in the essay. The author conceives that the "good life" is for all men a life of labor rather than a life of leisure.

The Romanes Lecture delivered by G. M. Trevelyan at Oxford University has been published in a small booklet of twenty-seven pages under the title of *The Two Party System in English Political History* (Oxford, at the Clarendon Press). Mr. Trevelyan's central theme is that "the dualism of the English religious world, and the disabilities imposed on Dissenters, form a large part of the explanation of the peculiarly English phenomenon of two continuous political parties in every shire and town of the land, surviving even when obvious political issues seem asleep or settled, or when the party programmes seem in certain important respects to have changed hands. . . . . The dualism in the religious life of the nation reflected itself into a political dualism. . . ."

The lectures delivered in 1925 by William Allen White, at the University of North Carolina under the Weil Foundation have been published under the title *Some Cycles of Cathay* (University of North Carolina Press, pp. ix, 96). The thesis of the book and its contents are best presented in the words of the author: "that our country has passed through three major cycles, the Revolutionary cycle, the Anti-Slavery cycle and the Populist cycle; each cycle more or less duplicating the other and somewhat growing out of the other, and all three cycles being a part of a larger cycle of democratic growth in the peoples and governments controlled by the English-speaking races." It goes without saying that the book is interesting and profitable reading.

Fathers of the Revolution, by Philip Guedalla (G. P. Putnam's Sons, pp. xi, 302), contains biographical sketches of twelve persons who played an important part in the events connected with the war for American Independence—George III, Louis XVI, Lord North, the Earl of Chatham, Edmund Burke, General Burgoyne, Cornwallis, George Washington, Franklin, Samuel Adams, Alexander Hamilton, and La Fayette. The author prefaces these sketches with "A Short Treatise on Truth" in which he says that "It would be safer, perhaps, to make the usual genuflexions before the stiff effigies erected by tradition as patriotic totems. . . . . But it seems more respectful to a man, even if he was a great man, to depict him as a man." It is from this point of view that he considers the various celebrities. The book is written in the author's characteristic spicy style.

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Charles Moore, head of the Manuscript Division of the Library of Congress, has given us a most pleasant book on *The Family Life of George Washington* (Houghton Mifflin Company, pp. xvi, 250). Well written, well illustrated, it gives the impression of a sort of super guidebook to that part of Virginia where Washington lived and where the author has evidently made many of those "pious pilgrimages" referred to by Mrs. Theodore Roosevelt in her brief introduction to the book.

The books regarding Jefferson grow apace. One of the latest additions is a volume containing *The Best Letters of Thomas Jefferson* selected and edited by J. G. de Roulhac Hamilton (Houghton Mifflin Company, pp. xv, 300). These letters are of particular interest because they give a somewhat clearer idea of the personal side of Jefferson. They also reveal his views on such political subjects as the constitution, states rights, the judiciary, executive and legislative power, foreign policy, and local government.

The fifth volume of the *Cambridge Mediaeval History* (Cambridge University Press) is entitled *Empire and Papacy* and covers roughly the period 1050–1200. This volume well maintains the standard of the series as an indispensable work of reference. Students of political science would be particularly interested in the chapters on the government of mediaeval towns and in the long account of Roman and canon law in the Mediaeval Ages by an eminent American scholar of the University of Cambridge. The bibliographies are particularly full and useful.

Herbert H. Gowen and Josef W. Hall have written *An Outline History of China* (D. Appleton and Co., pp. xxviii, 542), the chief purpose of which is to give the American student a readable, scholarly, and unbiased account of the Chinese people and of their civilization. In the opinion of the reviewer, the authors have accomplished this end in admirable fashion. About two-thirds of the book is given over to the republican era, which has been treated without passion or prejudice. A bibliography for collateral reading, a key to Chinese pronunciation, an outline of eras and reigns, and a map of large size increase the usefulness of the book.

A *Report of the Crimes Survey Committee* (pp. 476) appointed by the Law Association of Philadelphia has been published. After a thorough investigation of the administration of criminal justice in that city the members of the committee concluded that there were three outstanding

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weaknesses: (1) the magistrate's courts which were notoriously inefficient; (2) the large number of undetected and unprosecuted offenders; and (3) the absence of accessible classified statistical information. The committee expresses the opinion that if it were to consider the problem of the proper organization of the criminal administration of the city as it would consider any similar problem in the organization of a private corporation "one of the first changes made would be that the tenure of the office of the chief of police would be during good behavior and the office would be made sufficiently attractive to obtain and retain the services of a competent expert, freed from all the entanglements of 'practical politics.' But . . . . the reform here suggested can be accomplished only when the increasing complexity of governmental administration has forced a change in the popular attitude." In this conclusion the authors of the report are in substantial agreement with the opinion expressed in Raymond B. Fosdick's *American Police Systems*.

The Law of Municipal Zoning, by Newman F. Baker (privately published, pp. 136), is a reprint of five articles written by the author for various law reviews. The topics covered are municipal aesthetics and the law, the constitutionality of zoning laws, zoning legislation, zoning ordinances, and the zoning board of appeals. Mr. Baker, who was at one time a special assistant corporation counsel of the city of Chicago, shows an acquaintance with a vast number of cases and a thorough knowledge of the subject not only from the legal point of view but in its broader aspects. The collection is perhaps the most useful treatise on this topic which has appeared since J. B. Williams' *The Law of City Planning and Zoning* (1922).

The *City Manager Magazine* for March, 1926, is a substantial volume of 242 pages, forming the twelfth annual year-book of the International City Managers' Association. A large part of this is given to the report of the proceedings of the annual convention of the Association, held at Grand Rapids, Michigan, November 17–19, 1925. Papers and discussions on many problems of municipal government are included, not only by city managers but also by others, such as Professor Charles E. Merriam of the University of Chicago. The year-book also presents articles on the growth, operation, and prospects of the manager plan, and a directory of the 361 manager cities and villages. A recent section of the *City Managers' Magazine* is the International Municipal Digest, published for the International Federation of Local Government Associations. A special report on the city manager plan in California, by

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Randall M. Dorton, city manager of Monterey, has been reprinted in separate form.

American Villagers, by C. Luther Fry (George H. Doran Co., pp. xv, 201), is a statistical study of the size, composition, peculiarities, and contributions of village populations in the United States. Among the various conclusions the author points out that "contrary to general belief, village populations are increasing. From 1900 to 1920 villages actually increased in population more rapidly than the nation as a whole." Teachers of local government will find much useful illustrative material in this volume.

Our Times: the Turn of the Century, 1900–1904 (Scribners, pp. xxviii, 610), by the well-known correspondent, Mark Sullivan, is the first volume of a series of books narrating the chief happenings in America from 1900 to 1925. The material is gathered largely from newspapers, and the book is profusely illustrated with pictures and cartoons from magazines and papers. Emphasis is laid upon the contrast between 1900 and 1925 and a large amount of attention is given to political events. The book is written in popular style and is intended for the general reader.

Codification in the British Empire and America, by M. E. Lang (H. J. Paris, Amsterdam, pp. 204), is an account of the efforts which have been made in Anglo-Saxon countries to replace the system of unwritten common law by the code system prevailing generally on the Continent. The author confines his work entirely to exposition and does not attempt to deal with the controversy as to the merits and demerits of codification. Reading between the lines, especially in that part of the book covering the lack of legal uniformity in the American states, one gathers the impression, however, that M. Lang is in favor of codification.

Cases on Federal Taxation, by J. H. Beale and R. F. Magill (Prentice-Hall, pp. xv, 719), presents the leading cases on the federal income, corporation, estate, gift, and capital stock taxes which have been decided by the federal courts and by the board of tax appeals. There are numerous references to other cases, explanatory footnotes, and questions designed to direct the attention of the reader to the salient points in each decision. The usefulness of the book is increased by extracts from the tax laws of the United States and from regulations of the Treasury department. Considerable attention is paid to the administration of the tax laws and the questions arising therefrom.

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Students of national administration as well as of constitutional and administrative law will, therefore, find much in the compilation which is helpful.

Charles Platt's *The Riddle of Society* (E. P. Dutton and Company, pp. ix, 306) is a timely and readable discussion of delinquency, by the president of the National Probation Association, who is also director of the Pennsylvania committee on penal affairs. The first half of the book deals with the causes of delinquency and certain types of delinquents. Then follow two chapters on the law and prison and punishment. The later part of the book discusses the various movements for the improvement of society, their results and limitations, the importance of education for the social life, and finally the author's program for salvaging those delinquents who cannot be saved by social hygiene and education.

Confessions of a Candidate, by Frank Gray, late M.P. for Oxford City and Junior Liberal Whip (Hopkinson, London, pp. 175), was sent to the REVIEW with a note saying that the book is "a very amusing and interesting account of English electioneering methods by a go-getter candidate." We can find no better words to describe it. The author tells of his campaign organization, explains how to choose and "nurse" a constituency both before and after election, and how to canvass voters. He also gives the details of the elections of 1918, 1922, 1923, and 1924. In the 1923 campaign Mr. Gray's election was voided because of the blunders and excessive expenditures of his agent. He also relates his experiences in Parliament, especially his services as whip. Those who believe that American methods are unknown in British politics will have to revise their opinion after reading this entertaining book.

One of the recent additions to the series of World Manuals published by the Oxford University Press is *Karl Marx's Capital* (pp. 128), by A. D. Lindsay, Master of Balliol College, Oxford. The thesis of the book is that "the labour theory of value starts in Marx as a theory of natural right, based as are all such theories of natural rights on an individualistic view of society; that while Marx retains to the last the demand for economic justice which is the inspiration of all forms of the labour theory of value, he transforms an individualistic theory into something very different by his insistence on the social nature of value and production." In this way the author finds a parallel between Marx and Rousseau and the book closes with a chapter comparing the two writers.

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Dr. Alan G. B. Fisher has written a useful volume discussing *Some Problems of Wages and Their Regulation in Great Britain since 1918* (P. S. King & Son, pp. xviii, 281). A number of important wage disputes are treated at length in the light thus provided. Special attention is paid to the opinions and general outlook of the interested parties, which are believed to be "of the utmost importance in any attempt to ascertain the effects of any system of wage regulation."

In his *Italy under Mussolini* (The Macmillan Company, pp. 129) Mr. William Bolitho expresses strong dislike of the current Fascist régime. His disapproval is altogether natural, for he was forced to leave Italy while acting as correspondent for the New York World; but his book would have been much more convincing if he had not resorted to innuendo as one of his weapons.

Sumptuary Legislation and Personal Regulation in England (Johns Hopkins Press, pp. 282), by Frances E. Baldwin, is a detailed account of "the laws which regulated the intimate personal conduct of men in distinction from their general political rights and duties" from Edward III to Elizabeth, with a somewhat slighter chapter on the decline of sumptuary legislation in Stuart times.

D. Appleton and Company has published a substantial volume on *Federal Reserve Banking Practice* (pp. xix, 1016), by H. Parker Willis and William H. Steiner. It gives a thorough and detailed discussion of the practical workings and procedure of the federal reserve system. Although intended primarily for the business man and banker, it is an authoritative source of information on a subject which has numerous governmental ramifications. It also shows how an able administrative authority has, by the gradual working out of systematic regulations, applied and adapted the great body of congressional legislation, much of it crude or inconsistent, to the needs of our banking system.

The Romance of World Trade, by Alfred Pearce Dennis, vice-chairman of the United States Tariff Commission (Henry Holt and Company, pp. 493), is written by one who has plenty of facts, knowledge, and experience. The book is profusely illustrated. The chapter headings such as "Our Customers, the Italians," "Colorful Cotton," "The Invisibles of World Trade," are suggestive and inviting. But when one comes to read, one finds a style and method of presentation that are disappointing. Subjects of sentences trail off without a predicate. "Boxing the compass" is a favorite phrase often repeated; while the

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failure of the indigo industry in India is used as an illustration four or five times. However, the general reader will find much of interest in the book.

Dependent America, by William C. Redfield (Houghton Mifflin Company, pp. 268), after restating in popular, easily readable form facts which show how indispensable alien resources are to us, turns into cogent argument for international coöperative action in the political field such as has long existed in the musical, artistic, religious, literary, and scientific fields and more recently in the financial and economic.

A useful report on *The Agricultural Problem in the United States* has been issued by the National Industrial Conference Board (pp. 157). This makes a careful analysis of the conditions and recognizes the difficulties of the present situation. No definite remedies are proposed; and the main conclusion is to emphasize the need for coöperation of various economic interests in working out the best solution.

A copy of the October, 1925, issue of *Weltwirtschaftliches Archiv* (Gustav Fischer, Jena, pp. 498, xviii) has been received. This massive quarterly, founded in 1913, is the *Zeitschrift des Instituts für Weltwirtschaft und Seeverkehr an der Universität Kiel*, and is edited by Professor Bernhard Harms. It is devoted to worldwide economics and the economic aspects of international relationships. Each issue contains sections given over to: (a) articles by leading scholars and business men of various countries; (b) chronicles and surveys of a quantitative character; and (c) exhaustive bibliographies of the literature of world-wide economics appearing in the leading countries of the earth. Certain of the articles are in English. The publication would appear to be of peculiar value to those interested in international trade and commerce.

Erwin Volckmann's *Germanischer Handel und Verkehr* (Gebrüder Memminger, Würzburg, pp. viii, 540) is correctly described as a synoptic commercial history of the Germanic peoples (including the English, Scandinavians, etc., as well as the Germans proper) from the earliest times until A.D. 1600. The book is admirably written, from the point of view of folk psychology and the philosophy of history, rather than from that of political economy.

Francis B. Simkins has written an interesting account of one of the dominant figures in Southern politics during the last generation under the title, *The Tillman Movement in South Carolina* (Duke University

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Press, pp. 274). The author not only analyzes the personal influence of Senator Tillman on the politics and government of South Carolina but he also gives an account of the agrarian movement in the South during the eighties and describes the manner in which control was transferred from the old planters and statesmen to the small farmers. The book is a contribution to the study of American politics.

The main thesis in Sigmund Mendelsohn's *Saturated Civilization* (Macmillan, pp. xix, 180) is that "advance and recession mark the course of human progress," that civilization is not exempt from the laws of rhythm, and that, having produced a "surfeit of material progress" of social and political reform and educational opportunities, we are now about to swing backwards.

The Gentleman with a Duster is much alarmed about *The State of England* (G. P. Putnam's, pp. 149). Through one hundred and forty-nine pages of smoothly flowing language he first complains that England is not self-supporting and that its social structure is unsound. Then he preaches a very creditable sermon entitled "A Thesis of Life" in which he says that England's greatest asset is her moral vitality and that if England is not to perish she must take extra precautions not to lose this element of strength.

The Abolishment of the Electoral College (pp. 121), edited by Lamar T. Beman, is one of the most recent additions to the series of booklets known as *The Reference Shelf* published by the H. Wilson Company. Mr. Beman has here compiled a series of articles by various authorities for and against the abolition of the electoral college, together with a brief for debate and a bibliography.

Milton Conover, of Yale University, has compiled a *Working Manual of Civics* (Johns Hopkins Press, pp. 88) which contains a series of exercises and problems for high school students based upon the use of a few important public documents and books accessible to the average high school.

The number of Service Monographs issued by the Institute for Government Research (Johns Hopkins Press) continues to grow rapidly. Since the appearance of the signed review (Vol. xviii, pp. 622–626) covering the first thirty-three monographs six more have been published, including *The Bureau of Standards* (pp. 299) by G. A. Weber; *The Government Printing Office* (pp. 143), by L. F. Schmeckebier; *The Bureau*

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of the Mint (pp. 90), by J. P. Watson; *The Office of the Comptroller of the Currency* (pp. 84), by J. G. Heinberg; *The Naval Observatory* (pp. 101), by G. A. Weber; and *The Lighthouse Service* (pp. 158) by George Weiss.

The fame of Hugo Grotius as a writer on international law has so overshadowed his other work that one scarcely realizes that he was also an authority on jurisprudence. Another side of this remarkable man is emphasized by the appearance of an edition of the first volume of Grotius' *The Jurisprudence of Holland*, edited by R. W. Lee (Oxford: Clarendon Press, pp. xxv, 531). The editor has presented the original Dutch text and the English translations on opposite pages, and there are appended five large tables photographically reproduced from the first edition in the form that they were compiled by Grotius.

Captain Thomas G. Frothingham has concluded his series of three books on the naval history of the World War with a volume on *The United States in the War, 1917–1918* (Harvard University Press, pp. 310). The author brings out very clearly a point which is commonly overlooked or underrated, "that in the last stage sea power was the impelling force which was bringing final defeat to Germany."

Professor J. E. Harley, of the University of Southern California, has revised and enlarged his *Selected Documents and Material for the Study of International Law and Relations* (Los Angeles: Times-Mirror Press, pp. 422). The new material consists largely of extracts from the Locarno treaties and the text of the United States Senate resolution regarding the World Court reservations.

Under the title *Monografia del Departmento de Guatemala*, a substantial study giving a detailed description of the departments of Guatemala and its various municipalities has been prepared by J. Antonio Villacorta, chief officer of the department, and printed at the national press (pp. 378). Chapter XI gives a brief summary of departmental and municipal administration.

An exhaustive study of the social theory of an early syndicalist, *Guillaume de Greef* (Columbia University, pp. 391), has been provided by Dorothy Wolff Douglas. The book is divided into three parts: in the first, the backgrounds of De Greef's life and thought are set forth; in the second, the writer's works are summarized—for the first time in English; and in the third, they are critically examined. Mrs. Douglas' conclusion is that "De Greef's abstract theory, even to the complicated

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working of his 'system' of classification, is the outcome of his specific interests as a reformer." The volume will be of interest to the political theorist.

Professor Paul Périgord has performed a useful service by writing the first complete account in English of the history, structure, and operations of *The International Labor Organization* (D. Appleton and Company, pp. xxxii, 339) of the League of Nations. The volume is interesting and informing, but less impartially critical than might have been desired, the subject being considerably idealized.

A new contribution to the study of racial intelligence by means of mental tests is Clifford Kirkpatrick's monograph, *Intelligence and Immigration* (The Williams and Wilkins Co., pp. xiv, 127). His conclusions are "that marked differences in the intelligence of immigrant groups exist even when in the same environment, and the total of evidence, with certain exceptions, is unfavorable to the 'new immigration,' especially the Italians, so that the effect of immigration on American intelligence might be viewed with some concern." One's acceptance of these conclusions will largely depend upon one's judgment of the mental-testing technique, and of the relative influence of nature and nurture in moulding intelligence.

Miss Edith Abbott has prepared a second valuable volume of select documents touching on immigration. This one deals at length with *Historical Aspects of the Immigration Problem* (The University of Chicago Press, pp. xx, 881) during the period before 1882, the period of the "old immigration." Sections are devoted to: causes of emigration; economic aspects of the immigration problem; early problems of assimilation; pauperism and crime and other domestic immigration problems; and, public opinion and the immigrant.

One of the most recent additions to the *Reference Shelf* series published by the H. W. Wilson Co. is *Election versus Appointment of Judges* (pp. 171) compiled by L. T. Beman. Following the plan of the other booklets in the series, it contains reprints of selected articles, a bibliography, and affirmative and negative briefs on the subject.

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RECENT PUBLICATIONS OF POLITICAL INTEREST
BOOKS AND PERIODICALS

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AMERICAN GOVERNMENT AND PUBLIC LAW

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